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ABSTRACT

This practicum compares federal requirements for affirmative action plans (Executive Order 11246, and Revised Order Number 4) to the existing affirmative action plan of El Paso Community College (Texas). Since the federal guidelines mandata action as well as a written plan, the assessment of El Paso's program is in two phases: (1) the college's written plan is evaluated by comparing its contents with the stated requirements of the law; (2) the institution's activity is evaluated by interviewing members of the administration having direct responsibility for implementing and enforcing the law. The bulk of this report is made up of tables which indicate institutional compliance or non-compliance with specific federal requirements. The results of this practicum indicate that El Paso Community College needs to take many basic actions in order to reach full compliance with federal affirmative action guidelines. This document should be of assistance to other institutions undertaking evaluations of their affirmative action systems. Appended are: tab "A" and tab "C" of Executive Order 11246, the El Paso Community College Affirmative Action Plan, and a copy of the Equal Employment Opportunity Act of 1972. (NHM)

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FIRST ANNUAL ASSESSMENT OF THE
EL PASO COMMUNITY COLLEGE
AFFIRMATIVE ACTION PLAN

by

Gerald B. Money, M.A.
Blaine W. Nelson, M.A.

EL PASO COMMUNITY COLLEGE

A PRACTICUM PRESENTED TO NOVA UNIVERSITY
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ABSTRACT

El Paso Community College, like all institutions of higher learning receiving federal funds, is required to establish and maintain an annual evaluation system of the institution's "affirmative action plan." This practicum outlines the latest federal requirements of Executive Order 11246 and Revised Order No. 4, published by the Office of Civil Rights of the U. S. Department of Health, Education, and Welfare.

The purpose of the practicum was to compare federal requirements to the existing Affirmative Action Plan of El Paso Community College. Secondly, recommendations were made which, if adopted, will bring the El Paso Community College in full compliance with the federal law.

The results of this practicum indicates the El Paso Community College, like most institutions of higher learning, needs to take many basic actions in order to reach full compliance under Executive Order 11246. This practicum results in a comprehensive list of basic actions required of all educational institutions receiving federal funds and should assist in clarifying basic requirements of affirmative action evaluation systems for all educational institutions.

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INTRODUCTION

The Higher Education Guidelines, Executive Order 11246, published by the Office for Civil Rights of the U.S. Department of Health, Education, and Welfare require all public institutions receiving federal funds to provide a system of annual evaluation in order to monitor the effectiveness of the institution's "affirmative action plan." El Paso Community College's present Affirmative Action Plan was finalized in November 1973, in compliance with the then existing guidelines. To this date, no complete assessment of the plan has taken place. While valid reasons for lack of assessment exist, new guidelines published in February 1974 require immediate evaluation of the present plan in order to make those recommendations necessary to bring "affirmative action" at El Paso Community College within the new guidelines.

Chapter 1

PROCEDURE

In order to assess El Paso Community College's Affirmative Action Plan in relation to present federal guidelines, the following steps will be carried out: 1) a comprehensive review and content analysis of all federal regulations currently in force regarding equal employment opportunity and affirmative action regarding institutions of higher education will be conducted; 2) the content of the federal regulations will be transposed into action verb statements, and placed in outline form; 3) a content analysis of EPCC's current affirmative action program will be conducted; 4) the content of EPCC's affirmative action program will be analyzed comparatively with the federal regulations developed above, and determinations of compliance or non-compliance made; and 5) recommendations for change, will be made where the preceding analysis deems it necessary.

In determining the level of compliance of EPCC's Affirmative Action program with current federal standards and guidelines, the following methodology will be utilized. First, if it is found that the written plan contains those provisions that are required by federal regulation, then it will be determined to be in compliance. If, however, such requirements are omitted, or only included superficially, then it will be determined to be not in compliance.

Next, in order to examine the action phase of EPCC's Affirmative Action program, the outline of federal regulations developed in point (2) above will be administered to those persons entrusted with the responsibility of administering the federal regulations on campus as a questionnaire. These answers will then be tabulated and coded in the following manner: if two or more of the four respondents state that such action is, in fact, occurring, then it will be treated as "in compliance." If three or more of the respondents state that such action is not occurring, then it will be treated as "not in compliance."

Overall compliance of EPCC's total program, written as well as action, will then be determined in the following manner: a) if both components are found to be "in compliance," then a factor of "2" will be ascribed to the required action; b) if one of the components is found to be "in compliance" and the other is not, then a factor of "1" will be ascribed to the required action; and c) if both components are found to be "not in compliance," then a factor of "0" will be ascribed to the required action. It is felt by the authors that this is the clearest way of summarizing and expressing the level of compliance of each of the actions required of the institution by the federal guidelines.

INDIVIDUAL PRACTICUM RESPONSIBILITY

PRACTICUM ACTIVITY	PRIMARY RESPONSIBILITY	SECONDARY RESPONSIBILITY
1. Read Higher Education Guidelines, Executive Order 11246 (including up-dates)	Nelson	Money
2. Extract and organize Federal requirements	Nelson	Money

Individual Practicum Responsibility Continued

PRACTICUM ACTIVITY	PRIMARY RESPONSIBILITY	SECONDARY RESPONSIBILITY
3. Read El Paso Community College Affirmative Action Plan (including support resources)	Money	Nelson
4. Extract and organize EPCC/AAP policies	Money	Nelson
5. Analyze results of activities #2 and #4	Money and Nelson	
6. Recommend changes	Money and Nelson	
7. Establish timetable	Money and Nelson	
8. Individual summary	Money and Nelson	
9. Compile Appendix	Money and Nelson	

Chapter II

FEDERAL EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION REQUIREMENTS

Non-discrimination in the field of employment formally became law with the passage of the Civil Rights Act of 1964. Thus, Title VII of this law states:

> "It shall be unlawful employment practice for an employer--
>
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
>
> (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin."[1]

In order to enforce these guidelines, Congress established the Equal Employment Opportunity Commission (EEOC).

This law was supplemented the following year by the issuance of Executive Order 11246, mandating the policies of non-discrimination in employment for all government contractors, and affirmative action to insure such non-discrimination. "Such [affirmative] action," states the Order,

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[1] U.S. Congress, Senate, Committee on Labor and Public Welfare, The Equal Employment Opportunity Act of 1972: Title VII of Civil Rights Act of 1964 Showing Changes Made by Public Law 92-261 Approved March 24, 1972, 92d Congress, 2d Session (Washington: U.S. Government Printing Office, 1972), p. 3.

> "shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship."[2]

Executive Order 11246 further mandated government contractors to submit Compliance Reports containing all pertinent employment data to the U.S. Secretary of Labor.[3] Also, responsibility for establishing compliance guidelines and administering this Order was given to the Secretary of Labor.[4]

Non-discrimination in employment has been further enhanced by the passage of: 1) the *Age Discrimination in Employment Act of 1967*, protecting individuals between the ages of 40 and 65 from employment discrimination; 2) the *Equal Employment Opportunity Act of 1972*, amending Title VII of the Civil Rights Act of 1964 to strengthen the powers and expand the jurisdiction of the EEOC (to educational institutions, among others), and 3) Title IX of the *Education Amendments Act of 1972*, extending the anti-discrimination provisions of the *Equal Pay Act of 1963* to previously unprotected groups (including employees of educational institutions, among others), as well as prohibiting discrimination on the basis of sex with regard to employees or students or any educational institution receiving Federal financial aid.

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[2] U.S. Department of Health, Education, and Welfare, *Higher Education Guidelines: Executive Order 11246* (Washington: U.S. Government Printing Office, 1974), p. A-2.

[3] Ibid., p. A-3. [4] Ibid., p. A-2.

To assist institutions in complying with the legal requirements of non-discrimination and affirmative action in employment practices, the Secretary of Labor issued Revised Order No. 4.[5] This document sets forth in sections 60-2.10 through 60-2.32 extensive standards and guidelines by which affirmative action programs will be assessed. And while the Order suggests some degree of latitude in achieving compliance in accordance with these standards, there is also suggested a greater demonstration of one's "good faith efforts" if one is in conformance or seeking to be in conformance with them.[6] As this practicum is intended to be a working paper to assist El Paso Community College in revising and up-dating its Affirmative Action program, these standards and guidelines follow in outline form:

1.0 Policy Statement -- a formal assertion of the institution's commitment to support equal employment opportunity and affirmative action policies regarding all employment practices.

Sections 60-2.20 of the Bureau of Labor's Revised Order No. 4 call for a written policy statement affirming the institution's commitment to nondiscrimination in all personnel actions. Such a statement should include:

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[5] U.S. Department of Labor, Office of Federal Contract Compliance, "Revised Order No. 4," Federal Register, Vol. XXXVI, No. 234 (Washington: U.S. Government Printing Office, 1971). Reprinted in Higher Education Guidelines, pp. C-1, C-5.

[6] Ibid., p. C-3.

1.1 the institution's commitment to a policy of equal employment opportunity regarding all employment practices;[7]

1.2 the institution's commitment to an affirmative action program to eliminate discrimination in employment on the basis of race, color, sex, religion, age and national origin;[8]

1.3 the institution's commitment to comply with the Bureau of Labor's Sex and Age Discrimination Guidelines;[9]

1.4 the legal obligations of the institution in regards to equal employment opportunity;[10]

1.5 the chief administrative officer's attitude on (1.1), (1.2), and (1.3);[11]

1.6 the assignment of overall responsibility for the implementation of (1.1), (1.2), and (1.3);[12] and

1.7 provision for the establishemnt of reporting and monitoring procedures relative to (1.1), (1.2), and (1.3).[13]

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[7] Ibid., pp. 15, C-3. [8] Ibid., p. 15.

[9] *Higher Education Guidelines*, p. C-3; see also U.S. Equal Employment Opportunity Commission, *Affirmative Action and Equal Employment: A Guidebook for Employers* (Washington: U.S. Government Printing Office, 1974), p. 18.

[10] *Affirmative Action and Equal Employment*, p. 18.

[11] *Higher Education Guidelines*, p. C-3; see also *Affirmative Action and Equal Employment*, p. 18.

[12] *Higher Education Guidelines*, p. C-3. [13] Ibid., pp. 12, C-3.

As a firm indication of "good faith" compliance, it is recommended that this policy statement be issued over the signature of the chief administrative officer.[14]

2.0 Formal dissemination of policy statement and affirmative action compliance program.

Sections 60--2.13 and 60--2.21 of the Bureau of Labor's Revised Order No. 4 mandate the formal dissemination of the institution's equal employment opportunity policy statement and affirmative action compliance program. Compliance may be achieved by effecting the following provisions:

- 2.1 Internal dissemination (to administrators, managers, supervisors, and employees):
  - 2.1.1 place policy statement in the institution's policy manual;[15]
  - 2.1.2 place affirmative action compliance program in the institution's policy manual;[16]
  - 2.1.3 issue a written communication by the institution's chief administrative officer affirming the policy statement to all managers and supervisors;[17]

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[14] Ibid., p. 15; see also Affirmative Action and Equal Employment, p. 18.

[15] Higher Education Guidelines, p. C-3; see also Affirmative Action and Equal Employment, p. 20.

[16] Affirmative Action and Equal Employment, p. 20.

[17] Ibid.

2.1.4 conduct special meetings with the administration, management, and supervisors in order to: 1) explain the intent of the policy statement; 2) assert individual responsibility; 3) clarify the chief administrator's attitude on the subject; and 4) assure accountability for the program;[18]

2.1.5 discuss policy statement and affirmative action compliance program thoroughly in management training programs;[19]

2.1.6 communicate the existence of the affirmative action compliance program to all present employees, and make relevant portions available to them upon request;[20]

2.1.7 give policy statement and summary of key program elements to all employees;[21]

2.1.8 conduct special meetings with all personnel not included in section 2.1.4, to: 1) explain the intent of the policy statement; 2) assert individual responsibility; and 3) clarify the chief administrative officer's attitude;[22]

2.1.9 discuss policy statement and affirmative action compliance program thoroughly during employee orientation programs;[23]

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[18] Higher Education Guidelines, p. C-3; see also Affirmative Action and Equal Employment, p. 20.

[19] Higher Education Guidelines, p. C-3; see also Affirmative Action and Equal Employment, p. 21.

[20] Higher Education Guidelines, pp. 15, C-3.

[21] Ibid., p. C-3; see also Affirmative Action and Equal Employment, p. 21.

[22] Higher Education Guidelines, p. C-3.

2.1.10 post policy statement on a conspicuous personnel information bulletin board;[24]

2.1.11 post requisite posters from Equal Employment Opportunity Commission on conspicuous personnel information bulletin board;[25]

2.1.12 publicize policy statement in the institution's newsletters;[26] and

2.1.13 include policy statement in the institution's annual report.[27]

2.2 External dissemination (to recruitment sources, prospective applicants, subcontractors, etc., and the community-at-large):

2.2.1 Inform all recruiting sources of the institution's nondiscrimination policy by sending them the institution's policy statement annually, as well as expressing a positive interest in interviewing members of affected groups for all position openings;[28]

2.2.2 inform media that help-wanted ads cannot be placed in sex-segregated columns;[29]

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[23] Ibid., p. C-3; see also Affirmative Action and Equal Employment, p. 21.

[24] Ibid.

[25] Affirmative Action and Equal Employment, p. 21.

[26] Higher Education Guidelines, p. C-3; see also Affirmative Action and Equal Employment, p. 21.

[27] Ibid.

[28] Higher Education Guidelines, p. C-3; see also Affirmative Action and Equal Employment, p. 22.

2.2.3 include a statement that the institution is an "Equal Opportunity Employer, M/F" in all advertisings;[30]

2.2.4 inform the following groups in writing of the institution's non-discrimination policy:

  2.2.4.1 minority and women's organizations;

  2.2.4.2 community agencies;

  2.2.4.3 community leaders;

  2.2.4.4 secondary schools and colleges;[31]

2.2.5 communicate the existence of the affirmative action compliance program to all prospective employees, and make relevant portions available to them upon request;[32]

2.2.6 notify all subcontractors, vendors, and suppliers in writing of the institution's non-discrimination policy;[33] and

2.2.7 incorporate an equal opportunity clause in all purchase orders, leases, contracts, etc., covered by Executive Order 11246 as amended, as well as a revocation clause for non-compliance.[34]

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[29] Affirmative Action and Equal Employment, p. 23.

[30] Ibid.

[31] Higher Education Guidelines, p. C-3; see also Affirmative Action and Equal Employment, p. 23.

[32] Higher Education Guidelines, pp. 15, C-3.

[33] Affirmative Action and Equal Employment, p. 23.

[34] Higher Education Guidelines, p. C-3; see also Affirmative Action and Equal Employment, p. 23.

3.0 Formal establishment of responsibilities for the implementation of the affirmative action compliance program.

Sections 60--2.13 and 60--2.22 of the Bureau of Labor's Revised Order No. 4 require the formal establishment of responsibilities for carrying out the institution's affirmative action compliance program. Implementation of the following items is mandated:

3.1 appoint an executive to be Equal Employment Opportunity Officer;[35]

3.2 provide needed top management support;[36]

3.3 provide sufficient staffing;[37]

3.4 identify the Equal Employment Opportunity Officer in all internal and external communications relevant to the institution's equal employment opportunity programs;[38]

3.5 assign requisite responsibilities to the Equal Employment Opportunity Officer, to include but not be limited to:

3.5.1 developing policy statements, written affirmative action compliance programs, and internal and external communication techniques;

3.5.2 assisting in the identification of problem areas;

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[35] Higher Education Guidelines, pp. 15, C-3; see also Affirmative Action and Equal Employment, p. 19.

[36] Higher Education Guidelines, pp. 15, C-3. [37] Ibid.

[38] Ibid., p. C-3.

3.5.3 assisting line management in arriving at solutions to problems;

3.5.4 designing and implementing audit and report systems;

3.5.5 serving as liaison between the institution and governmental enforcement agencies, and the community-at-large;

3.5.6 keeping management informed of changes in the law; and

3.5.7 reporting quarterly to the chief administrative officer;[39]

3.6 create an Equal Employment Advisory Commission to assist the Equal Employment Opportunity Officer (optional);[40]

3.7 assign requisite responsibilities to line management, to include but not be limited to:

3.7.1 assisting in the identification of problem areas;

3.7.2 assisting in the establishment of goals and timetables;

3.7.3 participating in community minority and women's organizations;

3.7.4 periodically auditing of the institution's hiring programs, training programs, and promotion patterns, to remove impediments to equal employment opportunity;

3.7.5 discussing regularly with managers, supervisors and employees to insure that equal employment opportunity policies are being followed;

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[39] Ibid., pp. C-3 - C-4; see also *Affirmative Action and Equal Employment*, pp. 19-20.

[40] *Higher Education Guidelines*, p. 15; see also *Affirmative Action and Equal Employment*, p. 20.

3.7.6 reviewing qualifications of all employees to insure that affected groups are given full promotion opportunities;

3.7.7 providing career counseling for all employees;

3.7.8 periodically auditing the physical plant to insure compliance of the facilities; and

3.7.9 regulating discriminatory harassment of employees;[41] and

3.8 set up a grievance procedure for all employees (optional).[42]

4.0 Identification of problem areas by organizational units and job classification.

The heart of an institution's affirmative action compliance program rests in analyzing that institution's existing employment policies and practices, and thereby determining any problem areas that might exist. A "problem area" in this regard refers to the excessive concentration[43] or underutilization[44] of minorities or women within specific job classifications of the institution's work force. Such analyses are mandated by Sections 60--2.10, 60--2.13 (c), and 60--2.23 of the Bureau of Labor's Revised Order No. 4. To satisfy these requirements, institutions must:

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[41] Higher Education Guidelines, p. C-4; see also Affirmative Action and Equal Employment, p. 20.

[42] Higher Education Guidelines, p. 14.

[43] "Concentration," in this context, is defined as "more of a particular group (females, males, Spanish Surnamed or Negro males/females, etc.,) in a job category or department than would reasonably by expected by their presence in the workforce." Affirmative Action and Equal Employment, p. 24.

[44] "Underutilization" is defined as "having fewer minorities or women in particular job category than would reasonably be expected by their presence in the relevant labor market." Ibid., p. 23.

4.1 analyze the composition of the institution's workforce, by minority group status and sex separately, in order to determine the level of representation of said groups for each job classification,[45] by:

  4.1.1 developing a job classification taxonomy for the institution;[46]

  4.1.2 developing an inventory (basic data file) of all current employees, in accordance with Tab J, Higher Education Guidelines;[47]

  4.1.3 determining the degree of availability of minorities and women for employment, in accordance with the index set forth in Section 60-2.11, Revised Order No. 4;[48] and

  4.1.4 determining the degree of utilization of all affected groups in the institution's current work force, by job classification;[49]

4.2 analyze the selection processes for any latent discriminatory practices;[50]

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[45] Higher Education Guidelines, pp. C-2, C-4; see also Affirmative Action and Equal Employment, p. 23.

[46] Higher Education Guidelines, p. J-5; see also Affirmative Action and Equal Employment, p. 24.

[47] Higher Education Guidelines, pp. J-1 - J-6.

[48] Ibid., p. C-2; see also Affirmative Action and Equal Employment, p. 25.

[49] Ibid.

4.2 analyze the composition of applicant pools, by minority group status and sex, for any latent discriminatory practices;[50]

4.3 analyze the selection processes for any latent discriminatory practices, including:

  4.3.1 position descriptions;

  4.3.2 position titles;

  4.3.3 worker specifications;

  4.3.4 application forms;

  4.3.5 interview procedures;

  4.3.6 test administration;

  4.3.7 test validation;

  4.3.8 referral procedures; and

  4.3.9 final selection process;[51]

4.4 analyze the institution's upward mobility system for any latent discriminatory practices, including:

  4.4.1 assignments;

  4.4.2 job progressions;

  4.4.3 promotions;

  4.4.4 seniority; and

  4.4.5 all institutional training programs;[52]

4.5 analyze the institution's wage and salary structure for any latent discriminatory practices;[53]

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[50] Higher Education Guidelines, p. C-4; see also Affirmative Action and Equal Employment, p. 28.

[51] Ibid.   [52] Ibid.

4.6 analyze the institution's downward mobility system, for any latent discriminatory practices, including:

  4.6.1 retrenchment (lay-off; recall);

  4.6.2 disciplinary action;

  4.6.3 termination; and

  4.6.4 discharge;[54]

4.7 analyze the benefits and conditions of employment for any latent discriminatory practices;[55]

4.8 analyze the attitude of the institution's work force regarding the institution's commitment to equal employment opportunity;[56] and

4.9 analyze the technical phases of compliance (posters posted, notifications sent, applications and pertinent information retained, etc.).[57]

5.0 Creation of goals and objectives to correct identifiable deficiencies, including timetables for completion.

Sections 60--2.10, 60--2.12, and 60--2.13 of the Bureau of Labor's Revised Order No. 4 require the creation of goals and objectives to correct identifiable deficiencies in equal employment opportunity, including timetables for their attainment.[58] In order to satisfy these requirements, institutions must:

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[53] Higher Education Guidelines, p. J-5; see also Affirmative Action and Equal Employment, p. 28.

[54] Affirmative Action and Equal Employment, p. 28.

[55] Higher Education Guidelines, p. C-4; see also Affirmative Action and Equal Employment, p. 28.

[56] Higher Education Guidelines, p. C-4.

[57] Ibid.

5.1 develop goals and timetables that are designed to correct identifiable deficiencies, and which are: 1) significant; 2) specific for planned results; 3) measurable; 4) attainable; and 5) reflect anticipated expansion, contraction and turnover;[59]

5.2 develop goals and timetables separately for minorities and women;[60]

5.3 develop goals and interim annual targets for the institution as a whole, for each unit, and for each job classification;[61]

5.4 involve personnel relations staff, department and division heads, and local and unit managers in the goal setting process;[62] and

5.5 incorporate goals and timetables, with supportive data and analysis thereof, as a part of the institution's affirmative action compliance program.[63]

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[58] The Bureau of Labor cautions that goals are not rigid quotas, but rather targets that are reasonably attainable. Ibid., p. C-2; see also Affirmative Action and Equal Employment, p. 27.

[59] Higher Education Guidelines, p. C-2; see also Affirmative Action and Equal Employment, pp. 26-27.

[60] Higher Education Guidelines, p. C-2.

[61] Affirmative Action and Equal Employment, p. 27.

[62] Higher Education Guidelines, pp. 17, C-2; see also Affirmative Action and Equal Employment, p. 27.

[63] Higher Education Guidelines, p. C-3.

6.0 Development and execution of programs to achieve the established goals.

Sections 60--2.13 and 60--2.24 of the Bureau of Labor's Revised Order No. 4 calls for the development and execution of action-oriented programs to achieve the various goals and objectives established within the institution's Affirmative Action Compliance Program. In order to satisfy these requirements, institutions must:

6.1 conduct a job analysis to identify the actual functions performed;[64]

6.2 make all position descriptions reflect position functions accurately;[65]

6.3 validate worker specifications for all positions, using job performance and anti-discrimination criteria;[66]

6.4 make approved position descriptions and worker specifications available to all members of the management involved in the recruiting, screening, selecting and promoting process, as well as to all recruiting sources;[67]

6.5 institute the following techniques to improve recruitment and increase the flow of minority and female applicants:

6.5.1 place minorities and women on the personnel staff;

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[64] Affirmative Action and Equal Employment, p. 39.

[65] Higher Education Guidelines, p. C-4; see also Affirmative Action and Equal Employment, p. 39.

[66] Higher Education Guidelines, p. C-4.

[67] Ibid.

6.5.2 seek applicants through minority and women's organizations;

6.5.3 seek applicants through appropriate individual community leaders;

6.5.4 seek applicants through agencies and consulting firms that specialize in minority and female applicants;

6.5.5 conduct special briefing sessions for 6.5.2, 6.5.3, and 6.5.4, as well as for current minority and female employees, regarding the institution's present and future employment needs and employment application procedures;

6.5.6 advertise in media directed towards minorities and women;

6.5.7 recruit actively at school and colleges that have predominantly minority and/or female enrollments;

6.5.8 incorporate special efforts to reach minorities and women at all schools;

6.5.9 communicate a genuine interest in referrals of qualified minorities, male or female, for all jobs listed with recruiting agencies;

6.5.10 maintain an Affirmative Action File--minority and female applicants not hired for a present opening who are potential candidates for future openings (optional);

6.5.11 participate in "job fairs";

6.5.12 place all classified ads under "Help Wanted" or "Help Wanted, Male-Female" listings;

6.5.13 include "Equal Opportunity Employer, M/F" in all advertising;

6.5.14 list jobs with the local State Employment Service;

6.5.15 establish a career counseling program for all employees;

6.5.16 undertake special employment programs whenever possible;

6.5.17 present women and minorities pictorially in recruitment brochures whenever pictures are utilized; and

6.5.18 avoid recruiting by "word of mouth" or "walk-in" (reliance on such recruitment procedures has been ruled by the courts to be a discriminatory practice);[68]

6.6 take such action as is necessary to insure freedom from bias in the total selection process, including:

6.6.1 training all recruitment, screening, selection, promotion, disciplinary and related personnel in the legal requirements of the institution;[69]

6.6.2 purging the total selection process of any latent discriminatory practices;[70] and

6.6.3 monitoring the ways in which selection procedures are implemented;[71]

6.7 take such action as is necessary to insure freedom from bias in the institution's upward mobility system, including:

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[68] Ibid., pp. C-4 - C-5; see also Affirmative Action and Equal Employment, pp. 29-33.

[69] Higher Education Guidelines, p. C-4; see also Affirmative Action and Equal Employment, pp. 20-21, 29, 61.

[70] Higher Education Guidelines, pp. 7, C-4; see also Affirmative Action and Equal Employment, pp. 28-29, 35-45.

[71] Higher Education Guidelines, p. C-5; see also Affirmative Action and Equal Employment, pp. 29, 38, 45-46.

6.7.1 purging the upward mobility system of any latent discriminatory policies or procedures;[72] and

6.7.2 monitoring the way in which such policies and procedures are implemented;[73]

6.8 take such action as is necessary to insure freedom from bias in the institution's wage and salary structure. including:

6.8.1 purging the institution's wage and salary structure of any latent discriminatory policies or procedures;[74] and

6.8.2 monitoring the way in which such policies and procedures are implemented;[75]

6.9 take such action as is necessary to insure freedom from bias in the institution's downward mobility system, including:

6.9.1 purging the downward mobility system of any latent discriminatory policies or procedures;[76] and

6.9.2 monitoring the way in which such policies and procedures are implemented;[77] and

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[72] Higher Education Guidelines, pp. 10, C-5; see also Affirmative Action and Equal Employment, pp. 28, 46-47.

[73] Higher Education Guidelines, pp. 16, C-5; see also Affirmative Action and Equal Employment, pp. 47-52.

[74] Higher Education Guidelines, pp. 11-12; see also Affirmative Action and Equal Employment, pp. 28, 52.

[75] Higher Education Guidelines, p. 16.

[76] Ibid., pp. 10, C-5; see also Affirmative Action and Equal Employment, pp. 28, 55-57.

[77] Higher Education Guidelines, pp. 16, C-5; see also Affirmative Action and Equal Employment, pp. 55-56.

6.10 take such action as is necessary to insure freedom from bias in the institution's benefits and conditions of employment, including:

  6.10.1 purging the benefits and conditions of employment of any latent discriminatory policies or procedures;[78] and

  6.10.2 monitoring the way in which such policies and procedures are implemented.[79]

7.0 Development and execution of internal audit and reporting systems.

Sections 60--2.13 and 60--2.25 of the Bureau of Labor's Revised Order No. 4 calls for the design and implementation of internal audit and reporting systems to measure the effectiveness of the total Affirmative Action Compliance Program. In order to satisfy these requirements, institutions must:

7.1 monitor the records of:

  7.1.1 referrals;

  7.1.2 applicant flow;

  7.1.3 hires;

  7.1.4 placements;

  7.1.5 promotions;

  7.1.6 requests for transfers;

  7.1.7 transfers;

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[78] Higher Education Guidelines, pp. 10-11, 12-13; see also Affirmative Action and Equal Employment, p. 28, 52-55.

[79] Higher Education Guidelines, p. 16.

7.1.8 training program participants; and

7.1.9 terminations (lay-offs, resignations, and dismissals);[80]

7.2 document all new appointments of an energetic and systematic search for women and minorities;[81]

7.3 create an applicant retention system;[82]

7.4 require formal reports from unit managers on a scheduled basis (quarterly is recommended) as to the degree to which goals have been attained and timetables met;[83]

7.5 review report results with all levels of management;[84]

7.6 advise management of program effectiveness, with recommendations for improvement of unsatisfactory performance;[85] and

7.7 submit a formal report to OCR annually.[86]

8.0 Support of action programs.

Sections 60--2.13 and 60--2.26 of the Bureau of Labor's Revised Order No. 4 calls for the active support of community action and community service programs designed to improve the employment opportunities of women and minorities. To satisfy these requirements, institutions must:

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[80] Ibid., pp. 16, C-5; see also Affirmative Action and Equal Employment, p. 60.

[81] Higher Education Guidelines, p. 16.

[82] Ibid.

[83] Ibid., p. C-5; see also Affirmative Action and Equal Employment, p. 59.

[84] Affirmative Action and Equal Employment, p. 61.

[85] Higher Education Guidelines, p. C-5.

[86] Ibid., p. 16.

8.1 appoint key members of management to serve in various job-related community programs;[87]

8.2 support the community's various vocational guidance and training programs;[88]

8.3 publicize achievements of minority and female employees in local and minority news media;[89] and

8.4 support programs developed by such agencies as National Alliance of Businessmen, Urban Coalition, Community Relations Boards, Merit Employment Councils, etc.[90]

These, then, are the standards and guidelines that have to date been set down by the Secretary of Labor to administer Executive Order 11246. It is assumed that an expression of conformance or "good faith efforts" at conformance with them will be met by an assessment of "compliance" for the institution in question by the Equal Employment Opportunity Commission.

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[87] Ibid., p. C-5; see also Affirmative Action and Equal Employment, p. 63.

[88] Ibid.

[89] Higher Education Guidelines, p. C-5.

[90] Ibid., p. C-5; see also Affirmative Action and Equal Employment, p. 63.

Chapter III

THE CONTENTS OF THE EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION PLAN

The El Paso Community College finalized the development of its Affirmative Action Plan on November 1, 1973. The seven-page document is divided into eight specific categories. Together, these eight major areas lay the basis for "affirmative action" at the college.

Section I of the Plan is entitled Statement of Policy. It is this initial section which presents the college's commitment to the spirit of "affirmative action" by stating that:

> . . . equal opportunity and treatment shall be provided in all aspects of employment without regard to race, age, religion, color, national origin, or sex. Additionally, the President, Administrative Staff, and the Board of Trustees will devote their professional competence towards the implementation of this affirmative action.[1]

This commitment is then strengthened by the following three objectives: to develop or revise existing policies in order to establish more specific affirmative action at the college; to review and correct existing inequalities having resulted in discrimination; and to guarantee that qualified applicants will receive equal consideration for employment.[2] These objectives, along with the initial policy statement, are intended to formalize the college's plan to realize the goals of affirmative action.

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[1] El Paso Community College Affirmative Action Plan, (El Paso, Texas: El Paso Community College, 1973), p. 1.

[2] Ibid.

The Plan itself is intended to outline the process by which the college will "improve the distribution of minority and female employees."[3]

Procedures to consider any complaints of prejudice in the employment process are to be written and included in the college's Policies and Procedures Manual.[4] Having stated that minority and female applicants will be recognized and encouraged to apply, the plan specifies that announcements of positions at the college will include a statement of the institution's commitment to equal employment opportunity.[5] Additionally, all college contracts of more than $25,000 are to require a written statement of the contractor's commitment to equal opportunity in employment. Section I of the Plan ends with a statement that the affirmative action policy is to be enacted on a campus-wide basis and thus becomes the responsibility of all El Paso Community College employees.[6]

Section II of the report, Statement of Responsibility, distinguishes between implementation and continuation of the program. It is the responsibility of the President to implement the program. Once this is accomplished, successful continuation of the program becomes the responsibility of the entire staff.[7]

Section III of the Plan is concerned with clarification of the responsibilities of administrative, instructional, and classified personnel regarding affirmative action. This part of the report emphasizes the fact that no appointments to any of the above named positions will be made until qualified minority and female candidates "have been sought out and . . . . encouraged to apply."[8] In order to meet this commitment, the Plan states that all individuals concerned with the employment process will recognize the six responsibilities listed below:

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[3] Ibid. [4] Ibid.

[5] Ibid., p. 2. [6] Ibid.

[7] Ibid.

1) To be specifically aware of all El Paso Community College policies and government regulations regarding equal employment opportunities.
2) To be alert to identify problems and opportunities relative to equal employment opportunity for all Administrative, Instructional, and Classified employees.
3) To establish goals, objectives, and reasonable time tables for more effective equal employment opportunity.
4) To list all position vacancies with the appropriate personnel officer: to make final selection without regard to race, color, religion, sex, age, or national origin.
5) To create and maintain for review, in a designated location, a viable applicant pool; plus copies of all relevant communications, policies and job descriptions pertaining to recruitment and interviews.
6) To insure that all training opportunities are available to all members without regard to race, color, religion, sex, age, or national origin.[9]

In the next section of the Plan, Development of Programs to Eliminate Problem Areas and to Enhance Present Programs, is divided into four major areas: recruitment, job descriptions, promotions, and personnel policies and procedures. It is in this part of the report that the document begins to specify those actions to be taken in order to accomplish affirmative action.

In order to enhance the affirmative action thrust of the college's recruitment process, the college will contact "selected administrators and other professionals on a national basis."[10] Also, organizations oriented to women and minorities are to be contacted directly. Present personnel are to be notified of any new positions within the college. While notifying all college employment sources of El Paso Community College's affirmative action, recruitment sources will be asked to submit a written statement indicating the sources equal employment commitment. Finally, all position announcements with a salary of $18,000 or below will be filed with the United States Employment Service in Washington, D. C.[11]

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[8] Ibid. [9] Ibid., p. 3.

[10] Ibid.

All the positions with the college will have a written job description on file. These descriptions will be periodically analyzed in order to guarantee consistency between the written description and the actual performance required on the job. While all descriptions are to carry a wage classification to be reviewed any time the description of the job is updated, all job descriptions are to be non-biased in reference to "race, sex, age, color, religion, and national origin."[12]

The college guarantees that all personnel will be provided every opportunity to advance within the institution. In addition to training present employees so that they can qualify for higher or different positions, the Plan commits the institution tc giving preference to qualified applicants already employed. Whenever a position is announced, position requirements and duties will be made available to all current personnel. Finally, each individual's personnel record will include the person's length of employment with the college as well as his seniority in each position held with the college.[13]

In order to insure that all employees are aware of the college's personnel policies, a policies and procedures manual will be maintained. While the manual will include many items of information, it will provide "detailed information on employment practices pertinent to each employee, fringe benefits, EEO policy, grievance procedures, etc."[14]

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[11] Ibid., p. 4. [12] Ibid.

[13] Ibid., p. 5.

Section V of the Plan, Employment Objectives and Manpower Requirements, provides the additional alternative of utilizing attrition to promote and expand affirmative action among female and minority group personnel. This section of the report includes a September 15, 1974, deadline for completion of the procedural requirements of the college's program.[15] A chart indicating the changes to be made in the ratios of female and members of minority groups among college personnel is as follows:

	Distribution on 9/1/73		Intended Distribution on 12/1/74	
	Minority	Women	Minority	Women
Administrative Staff	57%	29%	58%	35%
Instructional Personnel	34%	43%	45%	45%
Classified Staff	84%	67%	75%	65%[16]

A system to assist the college in maintaining affirmative action program standards is outlined in Section VI of the Plan. Records, including the name, sex, and race of each applicant as well as the action taken regarding each applicant, will be maintained. Also, an annual report regarding action taken as a result of the institution's equal employment opportunity program will be prepared and forwarded to the college's President. Items to be included in the report are:

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[14] Ibid.

[15] Ibid.

[16] Ibid.

1) Number of candidates interviewed.
2) Minority group and sex applicants.
3) Number of minority and female applicants hired in Administrative, Instructional, and Classified Staff positions.
4) Minority and female percentages of Administrative, Instructional, and Classified Staff personnel.
5) Listing of the recruiting sources for new employees.[17]

Section VII of the Plan extends the college's programs to all vendors and suppliers associated with the institution. Purchase orders will include a printed statement indicating the contractor's legal obligation not to practice discrimination. All organizations making contracts with the college will be notified of the institution's obligations and responsibilities under affirmative action.[18]

The final section of El Paso Community College's Affirmative Action Plan outlines the process by which the Plan itself will be disseminated. This process is divided into two parts: internal and external. Internal provisions include the following: the institution's President will maintain a file on affirmative action; copies of the Affirmative Action Statement will be distributed to all employees and included in each Policies and Procedures Manual; and the thrust of the policy statement will be discussed during each new employee's orientation. Additionally, the institution's EEO Statement and other pertinent governmental materials will be displayed on permanent bulletin boards. External distribution of the policy includes all advertising and recruitment centers. Application forms will state that the institution is an "Equal

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[17] Ibid., p. 6.

[18] Ibid.

Opportunity Employer." Finally, off-campus presentations will include both minority and non-minority personnel in order to advertise the college's commitment to affirmative action.[19]

A summary outline of the El Paso Community College Affirmative Action Plan is presented below in order to clarify the plans previous in relation to federal requirements:

1.0 Statement of Policy

  1.1 General policy statement of equal employment opportunity.

  1.2 Affirmative Action Plan objectives.

    1.2.1 Develop new or revise present policies in order to establish "specific objectives" for equal employment opportunities.

    1.2.2 Review and correct existing inequalities having resulted in discrimination.

    1.2.3 Guarantee that qualified applicants will receive equal employment opportunity.

  1.3 EPCC/AAP outlines procedure which "increase(s) the numbers or improve(s) the distribution of minority and female employees.

  1.4 Complaint procedure to be included in EPCC Policies and Procedures Manual.

  1.5 "Qualified women and minority applicants" to be "identified and encouraged to apply."

  1.6 Announcements of positions to include statement of equal employment opportunity commitment.

  1.7 Requirement of statement of EEO Commitment from EPCC contractors when such contracts exceed $25,000.

  1.8 Statement of policy "to be implemented throughout" EPCC and to become responsibility of all employees.

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[19] Ibid., p. 7.

2.0 Statement of Responsibility

2.1 Implementation is responsibility of EPCC President.

2.2 Continuation of program is responsibility of entire staff.

3.0 Administrative, Instructional, and Classified Personnel

3.1 No appointments to be made to administrative, instructional and classified positions until qualified minority group candidates "have been sought out and . . . encouraged to apply."

3.2 Responsibilities of all college personnel involved with employment.

3.2.1 "To be specifically aware" of college policies and governmental requirements in reference to equal employment opportunity.

3.2.2 "To be alert to identify problems and opportunities" in reference to all personnel.

3.2.3 Establish goals and objectives, as well as a timetable, to insure equal employment opportunity.

3.2.4 Notify "appropriate" personnel officer of all vacancies and make selection under equal employment opportunity policy.

3.2.5 "To create and maintain . . . a viable applicant pool" as well as copies of relevant employment communications.

3.2.6 Guarantee "training opportunities" to all employees in reference to the equal opportunity commitment.

4.0 Development of Programs to Eliminate Problem Areas and to Enhance Present Programs.

4.1 Recruitment

4.1.1 Contact "selected administrators and other professionals" nationally as well as organizations oriented to women and minorities.

4.1.2 Notify all present personnel of new positions within the college.

4.1.3 Having notified all recruitment sources of the college's equal opportunity commitment, sources will be asked to submit a letter indicating the source's equal employment commitment.

4.1.4 Position announcements with a salary of $18,000 or below to be listed with U.S. Employment Service in Washington, D. C.

4.2 Job Descriptions

4.2.1 Develop and periodically analyze job descriptions with actual job performance for consistency as well as updating.

4.2.2 Job descriptions to be non-biased regarding "race, sex, age, color, religion, and national origin."

4.2.3 All job descriptions to carry a wage classification to be reviewed when job description is updated.

4.3 Promotions

4.3.1 College will guarantee that all personnel are provided every opportunity to advance within the institution.

4.3.2 College will attempt to train present personnel for "other position" prior to filling the position externally.

4.3.3 Job descriptions to be made available to personnel when positions are announced.

4.3.4 "Personnel records will include the length of service at El Paso Community College and in each position held by an individual."

4.4 Personnel Policies and Procedures

4.4.1 EPCC Policies and Procedures Manual to include detailed information on "employment practices pertinent to each employee, fringe benefits, EEO policy, grievance procedures, etc."

5.0 Employment Objectives and Manpower Requirements

5.1 Attrition to be utilized "to upgrade and extend" participation of minorities and women throughout the college.

5.2 September 15, 1974 set for achievement of the technical aspects of the program.

5.3 Table of employment ratio goals for women and minorities.

6.0 Record Keeping

6.1 Monitor the program to assure compliance by maintaining a record of the name, race, and sex of each applicant and action taken.

6.2 Maintain a record of applicants manner of referral to the personnel office.

6.3 Annual report to be submitted to the President.

6.3.1 Number of candidates interviewed.

6.3.2 Minority group and sex of applicants.

6.3.3 Number of minority and female applicants hired in Administrative, Instructional, and Classified Staff positions.

6.3.4 Minority and female percentages of Administrative, Instructional and Classified Staff personnel.

6.3.5 Listing of the recruiting sources for new employees.

6.4 Personnel records to include "employee's job category, salary level, rate or promotion."

7.0 Vendors and Suppliers

7.1 All contractors to be notified of the college's obligations under Executive Orders.

7.2 Purchase orders to include a "statement regarding the seller's responsibility for compliance with non-discrimination."

8.0 Dissemination of Policy

8.1 Internal dissemination

8.1.1 Maintenance of an Affirmative Action file in the Office of the President.

8.1.2 Distribution of Affirmative Action Statement to all employers.

8.1.3 Statement to be included in all copies of the college's Policies and Procedures Manual.

8.1.4 Posting of EEO posters on permanent bulletin boards.

8.1.5 New employee orientation to include references to the policy statement.

8.1.6 College's Equal Employment Opportunity Statement to be posted on permanent bulletin boards.

8.2 External dissemination

8.2.1 Recruitment and advertising sources to be notified of the college's non-discrimination policy regarding recruitment and hiring.

8.2.2 All applications to carry the statement "Equal Opportunity Employer."

8.2.3 Public presentations will utilize both minority and non-minority personnel.

Chapter IV

A COMPARATIVE ANALYSIS OF THE EL PASO COMMUNITY COLLEGE PLAN WITH THE FEDERAL REQUIREMENTS

Whereas Chapter Two has sought to describe the legal requirements regarding equal employment opportunity and affirmative action and Chapter Three has sought to describe El Paso Community College's affirmative action plan, this chapter seeks to evaluate EPCC's program in light of the relevant legal requirements, and to determine whether or not compliance with said requirements has been achieved.

Since the federal guidelines pertinent to affirmative action programs mandate an action as well as a written plan, the authors' assessment of the institution's overall program has assumed two phases. First, the college's written plan was evaluated by comparing its contents with the stated requirements of the law. Second, the institution's activity was evaluated by verbally interviewing those members of the administrative and classified personnel having direct responsibility for implementing and enforcing the law. These persons consisted of: 1) the President; 2) the Dean of Administration; 3) the Dean of Instruction; and 4) the Equal Employment Opportunity Officer.[1] This information, organized and keyed to the same outline as that developed in Chapter One, appears in Tables One-Eight.

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[1] In order to obtain as candid an interview as possible, all respondants were promised anonymity. Therefore, the interviews will be referred to by number, and the information used in tabular and aggregate form only.

Determination of the Institution's compliance with the legal requirements has, likewise, taken two avenues. First, if the written plan contained those provisions that were mandated by federal regulation (essentially by Revised Order No. 4), as determined in Chapter One, then it was judged to be in compliance with the law. If, however, such provisions were not included, or were included only in an incidental or superficial manner, then it was judged to be not in compliance with the law. As the requirements regarding affirmative action are becoming stricter as time progresses, if a question arose as to whether or not an included statement should be considered to be in compliance or not, the authors assumed the conservative position of determining it to be not in compliance. Justification for this decision was based upon an earnest caring for the institution, and the hope that this practicum will assist EPCC in re-evaluating all points of potential concern.

Next, compliance of the action-oriented phase of EPCC's program was determined upon information generated from the aforementioned interviews. If two or more of the respondants stated that such required action was occurring, it was determined that such requirement was being met, and therefore in compliance. If, however, three or four of the respondants stated that such required action was not occurring, or did not know whether such action was occurring, it was determined that such requirement was not being met, and therefore not in compliance.[2]

Overall compliance was then determined by weighting the institution's compliance in the written and action phases in the following manner: Y/Y = 2 = full compliance; Y/N and N/Y = 1 = partial compliance; and N/N = 0 = non-compliance. These figures will also be found on Tables One-Eight.

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[2] The only deviation from this is if three respondants said no, or did not know, but the fourth said yes, and was the actual individual who had taken such action.

As Table One reflects, El Paso Community College has developed a written policy statement, but this statement does not meet the federal standards currently being imposed upon institutions of higher education. While it does include a statement of the institution's commitment to equal employment opportunity, it is deficient in its statement of commitment to affirmative action, and neglects entirely any mention of the Bureau of Labor's Sex and Age Discrimination Guidelines. Nor does this policy statement assert the President's attitude regarding the above, or make provision for the establishment of processes to monitor procedures relative to the above. Clearly, the policy statement as presently written is not in compliance with requirements mandated by the Secretary of Labor.

Table Two reflects the fact that dissemination of EPCC's written policy statement falls far short of the criteria recommended by the Department of Labor. Reference is made to appending this document to the institution's policy manual, as well as to posting it publicly on the personnel information bulletin board, thereby making its existence known as well as distributing it to the bulk of EPCC's employees; such action, however, has occurred only at a minimum level. Only one respondant could declare that the statement had ever been posted, but even this individual stated that it was so posted for only a brief period of time. The only clear internal dissemination of the existence of EPCC's

TABLE I

COMPARISON OF EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION WRITTEN STATEMENT, AFFIRMATIVE ACTION LEGAL REQUIREMENTS, AND ACTION TAKEN

POLICY STATEMENT

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
1.0		X	N	N/A	N/A	N/A	N/A	N/A	N/A
1.1			Y	N/A	N/A	N/A	N/A	N/A	2
1.2		X	N	N/A	N/A	N/A	N/A	N/A	0
1.3	X		N	N/A	N/A	N/A	N/A	N/A	0
1.4	X		N	N/A	N/A	N/A	N/A	N/A	0
1.5	X		N	N/A	N/A	N/A	N/A	N/A	0
1.6	X		N	N/A	N/A	N/A	N/A	N/A	0
1.7	X		N	N/A	N/A	N/A	N/A	N/A	0

NOTE: X = illustrates reason for non-compliance

N = No

Y = Yes

N/A = Non-applicable

TABLE 2

COMPARISON OF EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION WRITTEN STATEMENT, AFFIRMATIVE ACTION LEGAL REQUIREMENTS, AND ACTION TAKEN

DISSEMINATION -- INTERNAL AND EXTERNAL

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
2.0		X	N	N/A	N/A	N/A	N/A	N/A	N/A
2.1		X	N	N/A	N/A	N/A	N/A	N/A	N/A
2.1.1			Y	N	N	Y	N	N	1
2.1.2	X		N	Y	N	N	N	N	0
2.1.3	X		N	Y	D/K	N	N	N	0
2.1.4	X		N	Y	N	Y	N	Y	1
2.1.5	X		N	Y	N	Y	N	Y	1
2.1.6			Y	N	N	N	N	N	1
2.1.7	X		N	N	N	N	N	N	0
2.1.8	X		N	N	N	N	N	N	0
2.1.9	X		N	N	N	N	N	N	0
2.1.10			Y	N	Y	N	N	Y	2
2.1.11			Y	N	Y	Y	Y	Y	2

TABLE 2 (continued)

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
2.1.12	X		N	N	N	N	N	N	0
2.1.13	X		N	N	N	N	N	N	0
2.2		X	N	N/A	N/A	N/A	N/A	N/A	N/A
2.2.1		X	N	N	N	N	N	N	0
2.2.2	X		N	D/K	Y	N	Y	Y	1
2.2.3	X		N	Y	Y	Y	Y	Y	1
2.2.4	X		N	Y	Y	Y	Y	Y	1
2.2.5	X		N	N	N	N	N	N	0
2.2.6			Y	N	Y	Y	D/K	Y	2
2.2.7		X	N	D/K	Y	D/K	D/K	Y	1

NOTE: X = Illustrates reason for non-compliance

N = No

Y = Yes

D/K = Don't know

N/A = Non-applicable

affirmative action program occurs in the posting of EEOC posters in conspicuous places.

External dissemination of the statement appears to have occurred at a higher rate and with a greater concern than has internal dissemination. While provisions for such distribution is still lacking in the written statement, still, interview responses indicate that personnel actions have been sensitive to this concern, and that such dissemination had occurred.

The weakness of EPCC's policy statement comes into focus at the point of delegating responsibility for the implementation of the institution's affirmative action program.

Revised Order No. 4 strongly suggests the appointment of an individual with administrative status to be the institution's equal employment opportunity officer. Further, it strongly advises that this individual have this function as his sole responsibility and have an independent and direct line of responsibility to the system's chief administrative officer. In contrast, the written policy statement makes no reference to such a position whatsoever; instead, it makes the President directly responsible for this program, yet diffuses line-and-staff responsibility by placing it "in the hands of each member of the staff".[3] Irregardless of this, in a memo dated 20 November 1973, the President selected such an officer.[4] Yet, the person he appointed was

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[3] El Paso Community College Affirmative Action Plan (El Paso, Texas: El Paso Community College, 1973), p. 2.

[4] Appendix C

TABLE 3

COMPARISON OF EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION WRITTEN STATEMENT, AFFIRMATIVE ACTION LEGAL REQUIREMENTS, AND ACTION TAKEN

IMPLEMENTATION

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
3.0		X	N	N/A	N/A	N/A	N/A	N/A	N/A
3.1	X		N	N	N	N	N	N	0
3.2	X		N	Y	N	N	N	N	0
3.3	X		N	N	N	N	N	N	0
3.4	X		N	N	N	D/K	D/K	N	0
3.5	X		N	N/A	N/A	N/A	N/A	N/A	N/A
3.5.1	X		N	N	N	D/K	N	N	0
3.5.2	X		N	N	N	D/K	N	N	0
3.5.3	X		N	N	N	D/K	N	N	0
3.5.4	X		N	N	N	D/K	N	N	0
3.5.5	X		N	N	N	D/K	N	N	0
3.5.6	X		N	N	N	D/K	N	N	0
3.5.7	X		N	N	N	D/K	N	N	0

TABLE 3 (continued)

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
3.6	X		N	N	N	N	N	N	0
3.7		X	N	N/A	N/A	N/A	N/A	N/A	N/A
3.7.1	X		N	N	N	Y	D/K	N	0
3.7.2		X	N	N	N	Y	D/K	N	0
3.7.3	X		N	N	N	Y	D/K	N	0
3.7.4	X		N	N	N	N	D/K	N	0
3.7.5	X		N	N	N	Y	D/K	N	0
3.7.6	X		N	N	N	N	D/K	N	0
3.7.7	X		N	N	N	N	D/K	N	0
3.7.8	X		N	N	N	N	D/K	N	0
3.7.9	X		N	N	N	Y	D/K	N	0
3.8		X	N	N	N	N	N	N	0

NOTE: X = Illustrates reason for non-compliance

N = No

Y = Yes

D/K = Don't know

N/A = Non-applicable

an employee of classified status, with numerous other primary responsibilities, and responsible to the Dean of Instruction. The result of this is clear: confusion abounds as to who is responsible for what; as to whether a classified staff member can call an administrative dean to task; as to the extent of commitment the institution has genuinely incurred with respect to the Federal affirmative action stipulations. Thus, it will be noted that non-compliance is virtually complete within this section on Table Three.

Also deficient is the institution's identification of problem areas. Here again, the written policy statement is virtually silent. In this void, action that has been taken has occurred on the basis of individual initiative, and has been totally uncoordinated. Thus, at least three separate data files of current employees have been developed independently of each other (one by the Dean of Administration, another by the Equal Employment Opportunity Officer, and a third by the Dean of Instruction). Also, analysis of the composition of the institution's work force, by minority group and sex, has occurred only unofficially and for a period of one year to date. Further analyses have been hampered by the lack of a directive calling for such to be done as well as by limited institutional funds.

In view of the fact that little provision has been made regarding the identification of problem areas, it is not surprising that the creation of goals and objectives to correct such problems is also deficient. One single goal is included in the institution's policy statement. This goal is directed towards the composition of administrative, instructional and classified personnel of the college as a whole, by

TABLE 4

COMPARISON OF EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION WRITTEN STATEMENT, AFFIRMATIVE ACTION LEGAL REQUIREMENTS, AND ACTION TAKEN

IDENTIFY PROBLEM AREAS

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
4.0		X	N	N/A	N/A	N/A	N/A	N/A	N/A
4.1			N	D/K	Y	D/K	D/K	N	0
4.1.1			N	N	Y	N	N	N	0
4.1.2	X		N	D/K	Y	Y	Y	Y	1
4.1.3	X		N	N	Y	N	N	N	0
4.1.4	X		N	N	Y	N	N	N	0
4.2	X		N	N	N	N	N	N	0
4.3		X	N	N/A	N/A	N/A	N/A	N/A	N/A
4.3.1			Y	N	N	D/K	N	N	1
4.3.2	X		N	N	N	D/K	N	N	0
4.3.3			Y	N	N	D/K	N	N	1
4.3.4	X		N	N	N	D/K	N	N	0
4.3.5	X		N	N	N	D/K	N	N	0
4.3.6	X		N	N	N	D/K	N	N	0

TABLE 4 (continued)

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
4.3.7	X		N	N	Y	D/K	N	N	0
4.3.8		X	N	N	N	D/K	N	N	0
4.3.9	X		N	N	N	D/K	N	N	0
4.4	X		N	N/A	N/A	N/A	N/A	N/A	N/A
4.4.1	X		N	N	Y	N	N	N	0
4.4.2	X		N	N	N	N	N	N	0
4.4.3	X		N	N	N	N	N	N	0
4.4.4	X		N	N	N	N	N	N	0
4.4.5	X		N	N	N	N	N	N	0
4.5	X		N	N	N	N	D/K	N	0
4.6	X		N	N/A	N/A	N/A	N/A	N/A	N/A
4.6.1	X		N	N	N	N	N	N	0
4.6.2	X		N	N	N	N	N	N	0
4.6.3	X		N	N	N	N	N	N	0
4.6.4	X		N	N	N	N	N	N	0
4.7	X		N	Y	Y	Y	D/K	Y	1
4.8	X		N	N	N	N	N	N	0

TABLE 4 (continued)

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
4.9	X		N	N	N	Y	Y	Y	1

NOTE: X = Illustrates reason for non-compliance

N = No

Y = Yes

D/K = Don't know

N/A = Non-applicable

TABLE 5

COMPARISON OF EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION WRITTEN STATEMENT, AFFIRMATIVE ACTION LEGAL REQUIREMENTS, AND ACTION TAKEN

CREATE GOALS AND OBJECTIVES

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
5.0		X	N	N/A	N/A	N/A	N/A	N/A	N/A
5.1		X	N	Y	N	D/K	N	N	0
5.2			Y	Y	N	Y	Y	Y	2
5.3	X		N	Y	N	D/K	N	N	0
5.4		X	N	Y	N	N	N	N	0
5.5		X	N	Y	N	D/K	N	N	0

NOTE:

X = Illustrates reason for non-compliance

N = No

Y = Yes

D/K = Don't know

N/A = Non-applicable

sex and minority status, yet is not justified in comparison to the population composition of the immediate community, of the available work force within the recruitment area, or even of visibly noticeable problem areas within the college's work force. Beyond this, there are no long-range goals or interim annual targets for any of the college's sub-units, i.e., student personnel services, office of instruction, etc., or by job classification.

Because EPCC's affirmative action program has not as yet addressed itself to the identification of problem areas, or to the development of goals and objectives to rid itself of these problem areas, it is not surprising that the development and execution of programs to achieve said goals are also deficient. Again, the institution's written statement does not provide the direction needed to produce an effective program, and the action that has occurred has done so because of individual initiative. Thus, even in the absence of stated policy, various techniques have been implemented by the personnel department throughout the recruitment phase to enhance minority and female hiring: applicants are sought through minority and women's organizations, appropriate community leaders, agencies specializing in minority and female applicants, selected media outlets and colleges, job fairs and special employment programs, etc. Yet, such action has not occurred to insure freedom from bias in the selection process, the upward mobility system, the wage and salary structure, or the downward mobility system. Some action has occurred with regard to benefits and conditions of employment through the Professional Rights and Responsibilities Committee of the college's Joint Senate, but this committee does not address itself to members of

TABLE 6

COMPARISON OF EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION WRITTEN STATEMENT, AFFIRMATIVE ACTION LEGAL REQUIREMENTS, AND ACTION TAKEN

EXECUTION

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
6.0		X	N	N/A	N/A	N/A	N/A	N/A	N/A
6.1	X		N	Y	N	N	N	N	0
6.2	X		N	Y	N	Y	N	Y	1
6.3	X		N	Y	N	Y	N	Y	1
6.4		X	N	Y	N	D/K	N	N	0
6.5		X	N	N/A	N/A	N/A	N/A	N/A	N/A
6.5.1	X		N	Y	Y	Y	Y	Y	1
6.5.2			Y	Y	Y	Y	Y	Y	2
6.5.3	X		N	Y	Y	Y	Y	Y	1
6.5.4	X		N	Y	Y	Y	Y	Y	1
6.5.5	X		N	N	N	Y	N	N	0
6.5.6	X		N	Y	Y	N	Y	Y	1
6.5.7		X	N	Y	Y	Y	Y	Y	1

TABLE 6 (continued)

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
6.5.8			Y	Y	Y	Y	N	Y	2
6.5.9	X		N	Y	Y	Y	Y	Y	1
6.5.10	X		N	N	D/K	N	N	N	0
6.5.11	X		N	Y	D/K	Y	N	Y	1
6.5.12	X		N	Y	Y	Y	Y	Y	1
6.5.13		X	N	Y	N	N	N	N	0
6.5.14	X		N	Y	Y	Y	Y	Y	1
6.5.15	X		N	N	N	N	N	N	0
6.5.16	X		N	Y	Y	Y	Y	Y	1
6.5.17	X		N	N	D/K	Y	Y	Y	1
6.5.18	X		N	Y	Y	Y	Y	Y	1
6.6		X	N	N/A	N/A	N/A	N/A	N/A	N/A
6.6.1	X		N	N	N	N	N	N	0
6.6.2	X		N	N	N	N	N	N	0
6.6.3		X	N	N	Y	N	N	N	0
6.7	X		N	N/A	N/A	N/A	N/A	N/A	N/A

TABLE 6 (continued)

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
6.7.1	X		N	Y	N	N	N	N	0
6.7.2	X		N	Y	N	N	N	N	0
6.8		X	N	N/A	N/A	N/A	N/A	N/A	N/A
6.8.1			Y	Y	N	N	N	N	1
6.8.2	X		N	Y	N	N	N	N	0
6.9	X		N	N/A	N/A	N/A	N/A	N/A	N/A
6.9.1	X		N	Y	N	N	N	N	0
6.9.2	X		N	Y	N	N	N	N	0
6.10	X		N	N/A	N/A	N/A	N/A	N/A	N/A
6.10.1	X		N	Y	Y	Y	Y	Y	1
6.10.2	X		N	Y	Y	Y	Y	Y	1

NOTE:
X = Illustrates reason for non-compliance
N = No
Y = Yes
D/K = Don't know
N/A = Non-applicable

the classified staff.

The same situation exists with respect to provisions for an internal audit and reporting system to measure the effectiveness of the affirmative action program. Again, the written statement is virtually mute, except for the provision to develop and submit an annual report to the President of the college. However, no provision was made as to who would develop this report, and therefore, such a report has not yet materialized. Beyond this, to assert that employment data are being tabulated and analyzed to measure the effectiveness of the college's affirmative aciton program is an over-assertion. Data are typically stored, i.e., letters of referral, applications, etc., but not presently analyzed.

One of the areas of most active support by EPCC is that of community involvement--action support of local and national community action programs. Yet, the written policy statement includes nothing in this regard. Members of the college's administrative staff are presently involved in such job-related community programs as LULAC, El Paso SER, Trinity O.I.C., El Paso Teacher's Federal Credit Union, and numerous others. These involvements have proved to be of significant value to the college's employment needs.

It is clear from the foregoing that the institution's affirmative action program, as presently written, is deficient in many regards. It is the purpose of the following chapter to make recommendations to overcome these deficiencies, and to assist in the development of a program that complies with present federal requirements.

TABLE 7

COMPARISON OF EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION WRITTEN STATEMENT, AFFIRMATIVE ACITON LEGAL REQUIREMENTS, AND ACTION TAKEN

INTERNAL AUDIT

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
7.0		X	N	N/A	N/A	N/A	N/A	N/A	N/A
7.1	X		N	N/A	N/A	N/A	N/A	N/A	N/A
7.1.1	X		N	Y	N	N	N	N	0
7.1.1 (a)	X		N	Y	D/K	Y	N	Y	1
7.1.2	X		N	N	D/K	N	N	N	0
7.1.3	X		N	N	D/K	Y	Y	Y	1
7.1.4	X		N	Y	D/K	Y	Y	Y	1
7.1.5	X		N	N	D/K	N	N	N	0
7.1.6	X		N	N	N	N	N	N	0
7.1.7	X		N	N	N	N	N	N	0
7.1.8	X		N	N	N	N	N	N	0
7.2	X		N	Y	N	N	N	N	0
7.3		X	N	N	Y	Y	Y	Y	1

TABLE 7 (continued)

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
7.4	X		N	N	N	N	N	N	0
7.5	X		N	N	N	N	N	N	0
7.6	X		N	N	N	Y	N	N	0
7.7		X	N	N	N	D/K	D/K	N	0

NOTE: X = Illustrates reason for non-compliance

N = No

Y = Yes

D/K = Don't know

N/A = Non-applicable

TABLE 8

COMPARISON OF EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION WRITTEN STATEMENT, AFFIRMATIVE ACTION LEGAL REQUIREMENTS, AND ACTION TAKEN

COMMUNITY RELATIONS

Affirmative Action Legal Requirements	Written Statement			Interview on Action Taken					Overall Compliance
	Absent	Non/Compliance	Compliance	#1	#2	#3	#4	Compliance	
8.0		X	N	N/A	N/A	N/A	N/A	N/A	N/A
8.1		X	N	Y	Y	Y	D/K	Y	1
8.2		X	N	Y	Y	Y	Y	Y	1
8.3		X	N	Y	Y	Y	Y	Y	1
8.4		X	N	Y	Y	Y	Y	Y	1

NOTE:

X = Illustrates reason for non-compliance

N = No

Y = Yes

D/K = Don't know

N/A = Non-applicable

Chapter V

RECOMMENDATIONS FOR CHANGE

Based upon the foregoing analysis of El Paso Community College's present Affirmative Action Plan, the authors submit the following recommendations:

The President of the College should issue a written policy statement, over his signature, concerning the institution's commitment to nondiscrimination in all matters regarding personnel as outlined in Section 1.0, Chapter One. This statement should be a permanent source of direction for the institution and its personnel in meeting the goals of affirmative action. As the institution's chief executive officer, the President's continual support of the affirmative action program is a minimal requirement if the institution is to be successful in meeting the goals and objectives of equal employment opportunity for all.

The President of El Paso Community College should appoint an Equal Employment Opportunity Officer with administrative rank and whose sole responsibility would be the managing of El Paso Community College's Affirmative Action Program. This individual should be responsible for writing, implementing, administering, and monitoring the equal employment opportunity activities as directed under *Revised Order No. 4*. As an administrator, this individual should be given the necessary powers and responsibilities as outlined in Section 3.0 of Chapter One, have direct access to the institution's chief administrative officer, as well as the ability of calling meetings of the institution's administrative staff. In order to insure successful continuation of the Affirmative Action Program, the EEO Officer should receive the fullest support of the institution's administration, faculty, and staff. As an administrator, the EEO Officer would be in a position to monitor the institution's continued support of affirmative action and guide the institution in those areas of direction necessary to fulfill its affirmative action commitment.

The President of the College should appoint an El Paso Community College Equal Employment Opportunity Advisory Committee to assist the Equal Employment Opportunity Officer in meeting the goals of the Affirmative Action Program. The membership of this committee should include representatives of the three major offices of the institution, as well as representatives of the administration, faculty, and classified staff. Membership in the committee should be mixed regarding ethnic background and sex so as to support the institution's commitment to affirmative action. The advisory committee should assist the EEO Officer in making recommendations regarding: revision of the institution's present Affirmative Action Plan; procedures to be used in meeting the goals of affirmative action; and procedures to be utilized in monitoring the institution's Affirmative Action Program.

The Equal Employment Opportunity Officer should revise the present El Paso Community College Affirmative Action Plan, finalized on November 1, 1973, to reflect the legal requirements of Revised Order No. 4 as outlined in Chapter One. This action is an absolute necessity if the institution wishes to meet the minimum federal requirements of affirmative action compliance programs. While revision is being made, the EEO Officer should also develop written procedures for the formal dissemination of the Affirmative Action Program and Policy Statement, according to Section 2.0. At an absolute minimum, formal dissemination should include: the filing of the Policy Statement and relevant portions of the Affirmative Action Program in the Office of the President and the EPCC Policy and Procedures Manual; the posting of the Policy Statement on the bulletin boards of the Office of Instruction; Office of Administration; and Office of Student Personnel Services; the publishing of the Policy Statement in the Faculty Boletin, EPCC Newsletter, and the Annual Report yearly; and conducting training programs on affirmative action at meetings of the administration, faculty, and classified staff annually.

The institution, under the direction of the Equal Employment Opportunity Officer, should establish written procedures to analyze the institution's present employment policies and practices in order to determine "problem areas." Having identified "problem areas," realistic long-range goals, with short-range completion objectives, should be developed to correct identifiable deficiencies. These goals and objectives should include dates for completion in order for El Paso Community College to establish an institution-wide timetable of affirmative action compliance.

The institution's Equal Employment Opportunity Officer should develop and implement procedures to achieve the goals of the Affirmative Action Program. In addition to the items included in the Appendix of this paper, it is suggested that affirmative action programs from other institutions, such as the Community College of Allegheny County, Pittsburgh, Pennsylvania, be obtained and reviewed to assist in developing sound procedures for the achievement of EPCC's affirmative action goals. Also, the EEO Officer should utilize Federal Regulations and the Employment Practices of Colleges and Universities, published by the National Association of College and University Business Offices.

The Equal Employment Officer should establish procedures, with timetables, for an annual, internal audit and reporting system based upon quarterly reports from him and staff to determine the effectiveness of the EPCC Affirmative Action Program. It is suggested that the institution consider purchasing or by some means gaining access to various commercial computer programs designed to record, store, and generate that information necessary to meet the record-keeping requirement of Revised Order No. 4. Since the institution's fiscal year runs from September 1 through August 31, internal auditing with final summary reports should be filed with the Office of the President by August 15 of each fiscal year.

The authors firmly believe that if El Paso Community College implements the foregoing recommendations, its present Affirmative Action Plan would be sufficiently revised so as to be in full compliance with the present federal regulations governing Equal Employment Opportunity and Affirmative Action.

TABLE 9

EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION PROGRAM TIMETABLE

Completion Date	Activity
07/01/75	Appointment of Equal Employment Opportunity Officer
"	Appointment of Equal Employment Opportunity Advisory Committee
08/01/75	Revise present El Paso Community College Affirmative Action Program
09/01/75	Issuance of written policy statement by President of the College
"	Formal dissemination of Affirmative Action Program and Policy Statement
"	Develop and implement procedures for achievement of the Affirmative Action Program
09/15/75	Establishment of written procedures for analysis of EPCC's present employment policies and practices
10/01/75	Development of goals and objectives, with timetables, to correct institutional deficiencies
12/01/75	Establishment of procedures for an annual, internal audit and reporting system
01/15/76	Revision of program for following year

SUMMARY STATEMENT

by

Gerald B. Money

The Affirmative Action Plan developed by El Paso Community College in November 1973 was an effort to formalize the institution's basic belief in a broad-based, open educational philosophy into an action-oriented program regarding personnel recruitment, hiring, and in-service training. Under the 1973 guidelines, including the uncertainty regarding institutions of higher education, El Paso Community College developed a program that at the present results in the college being guilty of sins of omission, not commission, regarding affirmative action compliance programs under Revised Order No. 4 and Executive Order 11246, as amended.

Under present guidelines, El Paso Community College is following the "spirit" of affirmative action, but has much to accomplish in meeting the "letter of the law" regarding equal employment opportunity. Formal actions, as outlined in Chapter IV, must be taken if El Paso Community College expects to maintain its leadership of innovation in the sphere of community college education across the nation. Administrative responsibility, annual budget allocation, and chief executive leadership must be realized if affirmative action is, in essence, to become a realistic component of El Paso Community College's institutional existence. The institution, if it is to realize the goal of educational benefit for all people, without regard to age, sex, and ethnic origin, must continue to develop and maintain those recruitment, hiring, and promotion practices which adhere to absolute non-discrimination regarding age, sex, and ethnic origin. Following the recommendations in Chapter IV, El Paso Community College can translate its "spiritual" obligations into the realistic, legal, and viable actions necessary to bring equal employment opportunity in a "factual" sense to El Paso, the state, and the nation.

This practicum was extremely helpful to me in two major areas: 1) it expanded my knowledge of the comprehensive nature of college governance and 2) it provided me an increased awareness of the legal responsibilities of my position as Chairman of the Division of Social Science. The practicum was a very positive learning experience because of these two results.

SUMMARY STATEMENT

by

Blaine W. Nelson

This practicum constitutes an exercise in applied institutional research. It has achieved: 1) an exhaustive study of the federal requirements that presently exist relevant to equal employment opportunity and affirmative action regarding institutions of higher learning; 2) a transposition of these requirements from legal jargon to language more comprehensible to college administrators 3) a content analysis of El Paso Community College's present Affirmative Action Plan; and 4) a comparative analysis of EPCC's Affirmative Action Plan with present federal regulations and guidelines.

In addition, determinations as to the acceptability or unacceptability of EPCC's present Affirmative Action Plan were made, and recommendations for change were developed for those areas that were deemed deficient re: the federal standards and guidelines.

Beyond the substantive knowledge that has been acquired, this exercise has enhanced my knowledge of college governance far more than I initially expected, as well as my awareness of the problems college administrators must tackle. It has increased tremendously my sympathies for the difficulties that members of administration must face and deal with.

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APPENDIX A

HIGHER EDUCATION GUIDELINES: EXECUTIVE ORDER 11246, TAB "A"

This is the text of Executive Order 11246, signed by President Johnson September 24, 1965, as amended by Executive Order 11375, signed October 13, 1967.

Amended Part I was superseded by Executive Order 11478, signed by President Nixon August 8, 1969.

Part II was amended to add sex as a prohibited basis of discrimination, effective October 13, 1968.

EXECUTIVE ORDER
11246

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

PART I—Nondiscrimination in Government Employment

[Secs. 101-105, barring discrimination in federal employment on account of race, color, religion, sex, or national origin, were superseded by Executive Order 11478. These provisions called for affirmative-action programs for equal opportunity at the agency level under general supervision of the Civil Service Commission; establishment of complaint procedures at each agency with appeal to the Commission; and promulgation of regulations by CSC.]

PART II—Nondiscrimination in Employment by Government Contractors and Subcontractors

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SUBPART A—DUTIES OF THE SECRETARY OF LABOR

Sec. 201. The Secretary of Labor shall be responsible for the administration of Parts II and III of this Order and shall adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes thereof.

SUBPART B—CONTRACTORS' AGREEMENTS

Sec. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

Sec. 203. (a) Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided*, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the contracting agency as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The contracting agency or the Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the Order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Secretary of Labor may require.

Sec. 204. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: *Provided,* That such an exemption will not interfere with or impede the effectuation of the purposes of this Order: *And provided further,* That in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

SUBPART C—POWERS AND DUTIES OF THE SECRETARY OF LABOR AND THE CONTRACTING AGENCIES

Sec. 205. Each contracting agency shall be primarily responsible for obtaining compliance with the rules, regulations, and orders of the Secretary of Labor with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Secretary of Labor in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this Order and of the rules, regulations and orders of the Secretary of Labor issued pursuant to this Order. They are directed to cooperate with the Secretary of Labor and to furnish the Secretary of Labor such information and assistance as he may require in the performance of his functions under this Order. They are further directed to appoint or designate, from among the agency's personnel, compliance officers. It shall be the duty of such officers to seek compliance with the objectives of this Order by conference, conciliation, mediation, or persuasion.

Sec. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor, or initiate such investigation by the appropriate contracting agency, to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor and the investigating agency shall report to the Secretary of Labor any action taken or recommended.

(b) The Secretary of Labor may receive and investigate or cause to be investigated complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order. If this investigation is conducted for the Secretary of Labor by a contracting agency, that agency shall report to the Secretary what action has been taken or is recommended with regard to such complaints.

Sec. 207. The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

Sec. 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection (a) of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209 (a)(6) shall be made without affording the contractor an opportunity for a hearing.

SUBPART D—SANCTIONS AND PENALTIES

Sec. 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

(5) Cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the nondiscrimination provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the contracting agency.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Under rules and regulations prescribed by the Secretary of Labor, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under Subsection (a) (2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under Subsection (a) (5) of this Section for failure of a contractor or subcontractor to comply with the contract provisions of this Order.

Sec. 210. Any contracting agency taking any action authorized by this Subpart, whether on its own motion, or as directed by the Secretary of Labor, or under the rules and regulations of the Secretary, shall promptly notify the Secretary of such action. Whenever the Secretary of Labor makes a determination under this Section, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall take such action and shall report the results thereof to the Secretary of Labor within such time as the Secretary shall specify.

Sec. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor or, if the Secretary so authorizes, to the contracting agency.

Sec. 212. Whenever a contracting agency cancels or terminates a contract, or whenever a contractor has been debarred from further Government contracts, under Section 209 (a) (6) because of noncompliance with the contract provisions with regard to nondiscrimination, the Secretary of Labor or the contracting agency involved, shall promptly notify the Comptroller General of the United States. Any such debarment may be rescinded by the Secretary of Labor or by the contracting agency which imposed the sanction.

SUBPART E—CERTIFICATES OF MERIT

Sec. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

Sec. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

Sec. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

PART III—Nondiscrimination Provisions in Federally Assisted Construction Contracts

Sec. 301. Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 203 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the administering department or agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations, and relevant orders of the Secretary, (2) to obtain and to furnish to the administering department or agency and to the Secretary of Labor such information as they may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the administering department or agency pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

Sec. 302. (a) "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

Sec. 303 (a) Each administering department and agency shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor, and to furnish the Secretary such information and assistance as he may require in the performance of his functions under this Order.

(b) In the event an applicant fails and refuses to comply with his undertakings, the administering department or agency may take any or all of the following actions: (1) cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with such applicant with respect to which the failure and refusal occurred; (2) refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and (3) refer the case to the Department of Justice for appropriate legal proceedings.

(c) Any action with respect to an applicant pursuant to Subsection (b) shall be taken in conformity with Section 602 of the Civil Rights Act of 1964 (and the regulations of the administering department or agency issued thereunder), to the extent applicable. In no case shall action be taken with respect to an applicant pursuant to Clause (1) or (2) of Subsection (b) without notice and opportunity for hearing before the administering department or agency.

Sec. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of non-discrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: *Provided*, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

PART IV—Miscellaneous

Sec. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order, except authority to promulgate rules and regulations of a general nature.

Sec. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

Sec. 403. (a) Executive Orders Nos. 10590 (January 18, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964) are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Civil Service Commission and the Secretary of Labor, as appropriate.

(b) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any executive order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

Sec. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

Sec. 405. This Order shall become effective 30 days after the date of this Order.

The Department of Labor is responsible for enforcement of this Executive Order. Contract compliance responsibilities have been assigned to the Department of Health, Education, and Welfare for HEW-assisted construction contractors and for government contractors in the following industries:

Insurance

Insurance Agents

Medical, Legal and Education Services

Museums, Art Galleries

Non-Profit Organizations

Certain State and Local Governments

Within the Department of Health, Education, and Welfare, the contract compliance program is administered by

Contract Compliance Division

Office for Civil Rights

Washington, D.C. 20201

(202) 963-5707

(An inquiry concerning insurance companies as government contractors should be directed to the Special Staff for Labor Relations and Equal Employment Opportunity, Social Security Administration, Baltimore, Maryland 21235.)

Requests for additional information regarding the HEW civil rights compliance program may be directed to the Office for Civil Rights in Washington, D. C. or to the Regional Office serving your State.

APPENDIX B

HIGHER EDUCATION GUIDELINES: EXECUTIVE ORDER 11246, TAB "C"

U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE
WASHINGTON, D.C. 20210

CHAPTER 60 -- Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor

(*Reprint from* FEDERAL REGISTER, VOL. 36, NO. 234—SATURDAY, DECEMBER 4, 1971

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 60—Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor

PART 60-2—AFFIRMATIVE ACTION PROGRAMS

On August 31, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 17444) with regard to amending Chapter 60 of Title 41 of the Code of Federal Regulations by adding a new Part 60-2, dealing with affirmative action programs. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendments.

Having considered all relevant material submitted, I have decided to, and do hereby amend Chapter 60 of Title 41 of the Code of Federal Regulations by adding a new Part 60-2, reading as follows:

Subpart A—General

Sec.
60-2.1 Title, purpose and scope.
60-2.2 Agency Action.

Subpart B—Required Contents of Affirmative Action Programs

60-2.10 Purpose of affirmative action program.
60-2.11 Required utilization analysis.
60-2.12 Establishment of goals and timetables.
60-2.13 Additional required ingredients of affirmative action programs.
60-2.14 Compliance status.

Subpart C—Methods of Implementing the Requirements of Subpart B

60-2.20 Development or reaffirmation of the equal employment opportunity policy.
60-2.21 Dissemination of the policy.
60-2.22 Responsibility for implementation.
60-2.23 Identification of problem areas by organization unit and job classification.
60-2.24 Development and execution of programs.
60-2.25 Internal audit and reporting systems.
60-2.26 Support of action programs.

Subpart D—Miscellaneous

60-2.30 Use of goals.
60-2.31 Preemption.
60-2.32 Supersedure.

AUTHORITY: The provisions of this Part 60-2 issued pursuant to sec. 201, Executive Order 11246 (30 F.R. 12319).

Subpart A—General

§ 60-2.1 Title, purpose and scope.

This part shall also be known as "Revised Order No. 4." and shall cover nonconstruction contractors. Section 60-1.40 of this Chapter, Affirmative Action Compliance Programs, requires that within 120 days from the commencement of a contract each prime contractor or subcontractor with 50 or more employees and a contract of $50,000 or more develop a written affirmative action compliance program for each of its establishments, and such contractors are now further required to revise existing written affirmative action programs to include the changes embodied in this order within 120 days of its publication in the FEDERAL REGISTER. A review of agency compliance surveys indicates that many contractors do not have affirmative action programs on file at the time an establishment is visited by a compliance investigator. This part details the agency review procedure and the results of a contractor's failure to develop and maintain an affirmative action program and then set forth detailed guidelines to be used by contractors and Government agencies in developing and judging these programs as well as the good faith effort required to transform the programs from paper commitments to equal employment opportunity. Subparts B and C are concerned with affirmative action plans only.

Relief for members of an "affected class" who, by virtue of past discrimination, continue to suffer the present effects of that discrimination must either be included in the contractor's affirmative action program or be embodied in a separate written "corrective action" program. An "affected class" problem must be remedied in order for a contractor to be considered in compliance. Section 60-2.2 herein pertaining to an acceptable affirmative action program is also applicable to the failure to remedy discrimination against members of an "affected class."

§ 60-2.2 Agency action.

(a) Any contractor required by § 60-1.40 of this chapter to develop an affirmative action program at each of his establishments who has not complied fully with that section is not in compliance with Executive Order 11246, as amended (30 F.R. 12319). Until such programs are developed and found to be acceptable in accordance with the standards and guidelines set forth in §§ 60-2.10 through 60-2.32, the contractor is unable to comply with the equal employment opportunity clause.

(b) If, in determining such contractor's responsibility for an award of a contract it comes to the contracting officer's attention, through sources within his agency or through the Office of Federal Contract Compliance or other Government agencies, that the contractor has not developed an acceptable affirmative action program at each of his establishments, the contracting officer shall notify the Director and declare the contractor-bidder nonresponsible unless he can otherwise affirmatively determine that the contractor is able to comply with his equal employment obligations or, unless, upon review, it is determined by the Director that substantial issues of law or fact exist as to the contractor's responsibility to the extent that a hearing is, in his sole judgment, required prior to a determination that the contractor is nonresponsible: *Provided*, That during any pre-award conferences every effort shall be made through the processes of conciliation, mediation and persuasion to develop an acceptable affirmative action program meeting the standards and guidelines set forth in §§ 60-2.10 through 60-2.32 so that, in the performance of his contract, the contractor is able to meet his equal employment obligations in accordance with the equal opportunity clause and applicable rules, regulations, and orders: *Provided further*, That when the contractor-bidder is declared nonresponsible more than once for inability to comply with the equal employment opportunity clause a n setting a timely hearing date shall be issued concurrently with the second nonresponsibility determination in accordance with the provisions of § 60-1.26 proposing to declare such contractor-bidder ineligible for future contracts and subcontracts.

(c) Immediately upon finding that a contractor has no affirmative action program or that his program is not acceptable to the contracting officer, the compliance agency representative or the representative of the Office of Federal Contract Compliance, whichever has made such a finding, shall notify officials of the appropriate compliance agency and the Office of Federal Contract Compliance of such fact. The compliance agency shall issue a notice to the contractor giving him 30 days to show cause why enforcement proceedings under section 209(b) of Executive Order 11246, as amended, should not be instituted.

(1) If the contractor fails to show good cause for his failure or fails to remedy that failure by developing and implementing an acceptable affirmative action program within 30 days, the compliance agency, upon the approval of the

Director, shall immediately issue a notice of proposed cancellation or termination of existing contracts or subcontracts and debarment from future contracts and subcontracts pursuant to § 60-1.26(b), giving the contractor 10 days to request a hearing. If a request for hearing has not been received within 10 days from such notice, such contractor will be declared ineligible for future contracts and current contracts will be terminated for default.

(2) During the "show cause" period of 30 days every effort shall be made by the compliance agency through conciliation, mediation, and persuasion to resolve the deficiencies which led to the determination of nonresponsibility. If satisfactory adjustments designed to bring the contractor into compliance are not concluded, the compliance agency, with the prior approval of the Director, shall promptly commence formal proceedings leading to the cancellation or termination of existing contracts or subcontracts and debarment from future contracts and subcontracts under § 60-1.26(b) of this chapter.

(d) During the "show cause" period and formal proceedings, each contracting agency must continue to determine the contractor's responsibility in considering whether or not to award a new or additional contract.

Subpart B—Required Contents of Affirmative Action Programs

§ 60-2.10 Purpose of affirmative action program.

An affirmative action program is a set of specific and result-oriented procedures to which a contractor commits himself to apply every good faith effort. The objective of those procedures plus such efforts is equal employment opportunity. Procedures without effort to make them work are meaningless; and effort, undirected by specific and meaningful procedures, is inadequate. An acceptable affirmative action program must include an analysis of areas within which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and, thus to increase materially the utilization of minorities and women, at all levels and in all segments of his work force where deficiencies exist.

§ 60-2.11 Required utilization analysis.

Based upon the Government's experience with compliance reviews under the Executive order programs and the contractor reporting system, minority groups are most likely to be underutilized in departments and jobs within departments that fall within the following Employer's Information Report (EEO-1) designations: officials and managers, professionals, technicians, sales workers, office and clerical and craftsmen (skilled). As categorized by the EEO-1 designations, women are likely to be underutilized in departments and jobs within departments as follows: officials and managers, professionals, technicians, sales workers (except over-the-counter sales in certain retail establishments), craftsmen (skilled and semi-skilled). Therefore, the contractor shall direct special attention to such jobs in his analysis and goal setting for minorities and women. Affirmative action programs must contain the following information:

(a) An analysis of all major job classifications at the facility, with explanation if minorities or women are currently being underutilised in any one or more job classifications (job "classification" herein meaning one or a group of jobs having similar content, wage rates and opportunities). "Underutilization" is defined as having fewer minorities or women in a particular job classification than would reasonably be expected by their availability. In making the work force analysis, the contractor shall conduct such analysis separately for minorities and women.

(1) In determining whether minorities are being underutilized in any job classification the contractor will consider at least all of the following factors:

(i) The minority population of the labor area surrounding the facility;

(ii) The size of the minority unemployment force in the labor area surrounding the facility;

(iii) The percentage of the minority work force as compared with the total work force in the immediate labor area;

(iv) The general availability of minorities having requisite skills in the immediate labor area;

(v) The availability of minorities having requisite skills in an area in which the contractor can reasonably recruit;

(vi) The availability of promotable and transferable minorities within the contractor's organization;

(vii) The existence of training institutions capable of training persons in the requisite skills; and

(viii) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to minorities.

(2) In determining whether women are being underutilized in any job classification, the contractor will consider at least all of the following factors:

(i) The size of the female unemployment force in the labor area surrounding the facility;

(ii) The percentage of the female workforce as compared with the total workforce in the immediate labor area;

(iii) The general availability of women having requisite skills in the immediate labor area;

(iv) The availability of women having requisite skills in an area in which the contractor can reasonably recruit;

(v) The availability of women seeking employment in the labor or recruitment area of the contractor;

(vi) The availability of promotable and transferable female employees within the contractor's organization;

(vii) The existence of training institutions capable of training persons in the requisite skills; and

(viii) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to women.

§ 60-2.12 Establishment of goals and timetables.

(a) The goals and timetables developed by the contractor should be attainable in terms of the contractor's analysis of his deficiencies and his entire affirmative action program. Thus, in establishing the size of his goals and the length of his timetables, the contractor should consider the results which could reasonably be expected from his putting forth every good faith effort to make his overall affirmative action program work. In determining levels of goals, the contractor should consider at least the factors listed in § 60-2.11.

(b) Involve personnel relations staff, department and division heads, and local and unit managers in the goal setting process.

(c) Goals should be significant, measurable and attainable.

(d) Goals should be specific for planned results, with timetables for completion.

(e) Goals may not be rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work.

(f) In establishing timetables to meet goals and commitments, the contractor will consider the anticipated expansion, contraction and turnover of and in the work force.

(g) Goals, timetables and affirmative action commitments must be designed to correct any identifiable deficiencies.

(h) Where deficiencies exist and where numbers or percentages are relevant in developing corrective action, the contractor shall establish and set forth specific goals and timetables separately for minorities and women.

(i) Such goals and timetables, with supporting data and the analysis thereof shall be a part of the contractor's written affirmative action program and shall be maintained at each establishment of the contractor.

(j) Where the contractor has not established a goal, his written affirmative action program must specifically analyze each of the factors listed in 60-2.11 and must detail his reason for a lack of a goal.

(k) In the event it comes to the attention of the compliance agency or the Office of Federal Contract Compliance that there is a substantial disparity in the utilization of a particular minority group or men or women of a particular minority group, the compliance agency or OPCC may require separate goals and timetables for such minority group and may further require, where appropriate, such goals and timetables by sex for such group for such job classifications and organizational units specified by the compliance agency or OPCC.

(l) Support data for the required analysis and program shall be compiled and maintained as part of the contractor's affirmative action program. This data will include but not be limited to progression line charts, seniority rosters, applicant flow data, and applicant rejection ratios indicating minority and sex status.

(m) Copies of affirmative action programs and/or copies of support data shall be made available to the compliance agency or the Office of Federal Contract Compliance, at the request of either, for such purposes as may be appropriate to the fulfillment of their responsibilities under Executive Order 11246, as amended.

§ 60-2.13 Additional required ingredients of affirmative action programs.

Effective affirmative action programs shall contain, but not necessarily be limited to, the following ingredients:

(a) Development or reaffirmation of the contractor's equal employment opportunity policy in all personnel actions.

(b) Formal internal and external dissemination of the contractor's policy.

(c) Establishment of responsibilities for implementation of the contractor's affirmative action program.

(d) Identification of problem areas (deficiencies) by organizational units and job classification.

(e) Establishment of goals and objectives by organizational units and job classification, including timetables for completion.

(f) Development and execution of action oriented programs designed to eliminate problems and further designed to attain established goals and objectives.

(g) Design and implementation of internal audit and reporting systems to measure effectiveness of the total program.

(h) Compliance or personnel policies and practices with the Sex Discrimination Guidelines (41 CFR Part 60-20).

(i) Active support of local and national community action programs and community service programs, designed to improve the employment opportunities of minorities and women.

(j) Consideration of minorities and women not currently in the workforce having requisite skills who can be recruited through affirmative action measures.

§ 60-2.14 Compliance status.

No contractor's compliance status shall be judged alone by whether or not he reaches his goals and meets his timetables. Rather, each contractor's compliance posture shall be reviewed and determined by reviewing the contents of his program, the extent of his adherence to this program, and his good faith efforts to make his program work toward the realization of the program's goals within the timetables set for completion. There follows an outline of examples of procedures that contractors and Federal agencies should use as a guideline for establishing, implementing, and judging an acceptable affirmative action program.

Subpart C—Methods of Implementing the Requirements of Subpart B

§ 60-2.20 Development or reaffirmation of the equal employment opportunity policy.

(a) The contractor's policy statement should indicate the chief executive officers' attitude on the subject matter, assign overall responsibility and provide for a reporting and monitoring procedure. Specific items to be mentioned should include, but not limited to:

(1) Recruit, hire, train, and promote persons in all job classifications, without regard to race, color, religion, sex, or national origin, except where sex is a bona fide occupational qualification. (The term "bona fide occupational qualification" has been construed very narrowly under the Civil Rights Act of 1964. Under Executive Order 11246 as amended and this part, this term will be construed in the same manner.)

(2) Base decisions on employment so as to further the principle of equal employment opportunity.

(3) Insure that promotion decisions are in accord with principles of equal employment opportunity by imposing only valid requirements for promotional opportunities.

(4) Insure that all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, company sponsored training, education, tuition assistance, social and recreation programs, will be administered without regard to race, color, religion, sex, or national origin.

§ 60-2.21 Dissemination of the policy.

(a) The contractor should disseminate his policy internally as follows:

(1) Include it in contractor's policy manual.

(2) Publicize it in company newspaper, magazine, annual report and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain intent of policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all other employees to discuss policy and explain individual employee responsibilities.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to ensure they are nondiscriminatory.

(8) Publish articles covering EEO programs, progress reports, promotions, etc., of minority and female employees, in company publications.

(9) Post the policy on company bulletin boards.

(10) When employees are featured in product or consumer advertising, employee handbooks or similar publications both minority and nonminority, men and women should be pictured.

(11) Communicate to employees the existence of the contractors affirmative action program and make available such elements of his program as will enable such employees to know of and avail themselves of its benefits.

(b) The contractor should disseminate his policy externally as follows:

(1) Inform all recruiting sources verbally and in writing of company policy, stipulating that these sources actively recruit and refer minorities and women for all positions listed.

(2) Incorporate the Equal Opportunity clause in all purchase orders, leases, contracts, etc., covered by Executive Order 11246, as amended, and its implementing regulations.

(3) Notify minority and women's organizations, community agencies, community leaders, secondary schools and colleges, of company policy, preferably in writing.

(4) Communicate to prospective employees the existence of the contractor's affirmative action program and make available such elements of his program as will enable such prospective employees to know of and avail themselves of its benefits.

(5) When employees are pictured in consumer or help wanted advertising, both minorities and nonminority men and women should be shown

(6) Send written notification of company policy to all subcontractors, vendors and suppliers requesting appropriate action on their part.

§ 60-2.22 Responsibility for implementation.

(a) An executive of the contractor should be appointed as director or manager of company Equal Opportunity Programs. Depending upon the size and geographical alignment of the company, this may be his or her sole responsibility. He or she should be given the necessary top management support and staffing to execute the assignment. His or her identity should appear on all internal and external communications on the company's Equal Opportunity Programs. His or her responsibilities should include, but not necessarily be limited to:

(1) Developing policy statements, affirmative action programs, internal and external communication techniques.

(2) Assisting in the identification of problem areas.

(3) Assisting line management in arriving at solutions to problems.

(4) Designing and implementing audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's goals and objectives have been attained.

(5) Serve as liaison between the contractor and enforcement agencies.

(6) Serve as liaison between the contractor and minority organizations, women's organizations and community action groups concerned with employment opportunities of minorities and women.

(7) Keep management informed of latest developments in the entire equal opportunity area.

(b) Line responsibilities should include, but not be limited to, the following:

(1) Assistance in the identification of problem areas and establishment of local and unit goals and objectives.

(2) Active involvement with local minority organizations, women's organizations, community action groups and community service programs.

(3) Periodic audit of training programs, hiring and promotion patterns to remove impediments to the attainment of goals and objectives.

(4) Regular discussions with local managers, supervisors and employees to be certain the contractor's policies are being followed.

(5) Review of the qualifications of all employees to insure that minorities and women are given full opportunities for transfers and promotions.

(6) Career counseling for all employees.

(7) Periodic audit to insure that each location is in compliance in area such as:

(i) Posters are properly displayed.

(ii) All facilities, including company housing, which the contractor maintains for the use and benefit of his employees, are in fact desegregated, both in policy and use. If the contractor provides facilities such as dormitories, locker rooms and rest rooms, they must be comparable for both sexes.

(iii) Minority and female employees are afforded a full opportunity and are encouraged to participate in all company sponsored educational, training, recreational and social activities.

(8) Supervisors should be made to understand that their work performance is being evaluated on the basis of their equal employment opportunity efforts and results, as well as other criteria.

(9) It shall be a responsibility of supervisors to take actions to prevent harassment of employees placed through affirmative action efforts.

§ 60–2.23 Identification of problem areas by organizational units and job classifications.

(a) An in-depth analysis of the following should be made, paying particular attention to trainees and those categories listed in § 60–2.11(d).

(1) Composition of the work force by minority group status and sex.

(2) Composition of applicant flow by minority group status and sex.

(3) The total selection process including position descriptions, position titles, worker specifications, application forms, interview procedures, test administration, test validity, referral procedures, final selection process, and similar factors.

(4) Transfer and promotion practices.

(5) Facilities, company sponsored recreation and social events, and special programs such as educational assistance.

(6) Seniority practices and seniority provisions of union contracts.

(7) Apprenticeship programs.

(8) All company training programs, formal and informal.

(9) Work force attitude.

(10) Technical phases of compliance, such as poster and notification to labor unions, retention of applications, notification to subcontractors, etc.

(b) If any of the following items are found in the analysis, special corrective action should be appropriate.

(1) An "underutilization" of minorities or women in specific work classifications.

(2) Lateral and/or vertical movement of minority or female employees occurring at a lesser rate (compared to work force mix) than that of nonminority or male employees.

(3) The selection process eliminates a significantly higher percentage of minorities or women than nonminorities or men.

(4) Application and related preemployment forms not in compliance with Federal legislation.

(5) Position descriptions inaccurate in relation to actual functions and duties.

(6) Tests and other selection techniques not validated as required by the OFCC Order on Employee Testing and other Selection Procedures.

(7) Test forms not validated by location, work performance and inclusion of minorities and women in sample.

(8) Referral ratio of minorities or women to the hiring supervisor or manager indicates a significantly higher percentage are being rejected as compared to nonminority and male applicants.

(9) Minorities or women are excluded from or are not participating in company sponsored activities or programs.

(10) De facto segregation still exists at some facilities.

(11) Seniority provisions contribute to overt or inadvertent discrimination, i.e., a disparity by minority group status or sex exists between length of service and types of job held.

(12) Nonsupport of company policy by managers, supervisors or employees.

(13) Minorities or women underutilized or significantly underrepresented in training or career improvement programs.

(14) No formal techniques established for evaluating effectiveness of EEO programs.

(15) Lack of access to suitable housing inhibits recruitment efforts and employment of qualified minorities.

(16) Lack of suitable transportation (public or private) to the work place inhibits minority employment.

(17) Labor unions and subcontractors not notified of their responsibilities.

(18) Purchase orders do not contain EEO clause.

(19) Posters not on display.

§ 60–2.24 Development and execution of programs.

(a) The contractor should conduct detailed analyses of position descriptions to insure that they accurately reflect position functions, and are consistent for the same position from one location to another.

(b) The contractor should validate worker specifications by division, department, location or other organizational unit and by job category using job performance criteria. Special attention should be given to academic, experience and skill requirements to insure that the requirements in themselves do not constitute inadvertent discrimination. Specifications should be consistent for the same job classification in all locations and should be free from bias as regards to race, color, religion, sex, or national origin, except where sex is a bona fide occupational qualification. Where requirements screen out a disproportionate number of minorities or women such requirements should be professionally validated to job performance.

(c) Approved position descriptions and worker specifications, when used by the contractor, should be made available to all members of management involved in the recruiting, screening, selection, and promotion process. Copies should also be distributed to all recruiting sources.

(d) The contractor should evaluate the total selection process to insure freedom from bias and, thus, aid the attainment of goals and objectives.

(1) All personnel involved in the recruiting, screening, selection, promotion, disciplinary, and related processes should be carefully selected and trained to insure elimination of bias in all personnel actions.

(2) The contractor shall observe the requirements of the OFCC Order pertaining to the validation of employee tests and other selection procedures.

(3) Selection techniques other than tests may also be improperly used so as to have the effect of discriminating against minority groups and women. Such techniques include but are not restricted to, unscored interviews, unscored or casual application forms, arrest records, credit checks, considerations of marital status or dependency or minor children. Where there exist data suggesting that such unfair discrimination or exclusion of minorities or women exists, the contractor should analyze his unscored procedures and eliminate them if they are not objectively valid.

(e) Suggested techniques to improve recruitment and increase the flow of minority or female applicants follow: .

(1) Certain organizations such as the Urban League, Job Corps, Equal Opportunity Programs, Inc., Concentrated Employment Programs, Neighborhood Youth Corps, Secondary Schools, Colleges, and City Colleges with high minority enrollment, the State Employment Service, specialized employment agencies, Aspira, LULAC, SER, the G.I. Forum, the Commonwealth of Puerto Rico are normally prepared to refer minority applicants. Organizations prepared to refer women with specific skills are: National Organization for Women, Welfare Rights Organizations, Women's Equity Action League, Talent Bank from Business and Professional Women (including 26 women's organizations), Professional Women's Caucus, Intercollegiate Association of University Women, Negro Women's sororities and service

groups such as Delta Sigma Theta, Alpha Kappa Alpha, and Zeta Phi Beta; National Council of Negro Women, American Association of University Women, YWCA, and sectarian groups such as Jewish Women's Groups, Catholic Women's Groups and Protestant Women's Groups, and women's colleges. In addition, community leaders as individuals shall be added to recruiting sources.

(2) Formal briefing sessions should be held, preferably on company premises, with representatives from these recruiting sources. Plant tours, presentations by minority and female employees, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, followup with sources, and feedback on disposition of applicants.

(3) Minority and female employees, using procedures similar to subparagraph (2) of this paragraph, should be actively encouraged to refer applicants.

(4) A special effort should be made to include minorities and women on the Personnel Relations staff.

(5) Minority and female employees should be made available for participation in Career Days, Youth Motivation Programs, and related activities in their communities.

(6) Active participation in "Job Fairs" is desirable. Company representatives so participating should be given authority to make on-the-spot commitments.

(7) Active recruiting programs should be carried out at secondary schools, junior colleges, and colleges with predominant minority or female enrollments.

(8) Recruiting efforts at all schools should incorporate special efforts to reach minorities and women.

(9) Special employment programs should be undertaken whenever possible. Some possible programs are:

(i) Technical and nontechnical co-op programs with predominately Negro and women's colleges.

(ii) "After school" and/or work-study jobs for minority youths, male and females.

(iii) Summer jobs for underprivileged youth, male and female.

(iv) Summer work-study programs for male and female faculty members of the predominantly minority schools and colleges.

(v) Motivation, training and employment programs for the hard-core unemployed, male and female.

(10) When recruiting brochures pictorially present work situations, the minority and female members of the work force should be included, especially when such brochures are used in school and career programs.

(11) Help wanted advertising should be expanded to include the minority news media and women's interest media on a regular basis.

(f) The contractor should insure that minority and female employees are given equal opportunity for promotion. Suggestions for achieving this result include:

(1) Post or otherwise announce promotional opportunities.

(2) Make an inventory of current minority and female employees to determine academic, skill and experience level of individual employees.

(3) Initiate necessary remedial, job training and workstudy programs.

(4) Develop and implement formal employee evaluation programs.

(5) Make certain "worker specifications" have been validated on job performance related criteria. (Neither minority nor female employees should be required to possess higher qualifications than those of the lowest qualified incumbent.)

(6) When apparently qualified minority or female employees are passed over for upgrading, require supervisory personnel to submit written justification.

(7) Establish formal career counseling programs to include attitude development, education aid, job rotation, buddy system and similar programs.

(8) Review seniority practices and seniority clauses in union contracts to insure such practices or clauses are nondiscriminatory and do not have a discriminatory effect.

(g) Make certain facilities and company-sponsored social and recreation activities are desegregated. Actively encourage all employees to participate.

(h) Encourage child care, housing and transportation programs appropriately designed to improve the employment opportunities for minorities and women.

§ 60-2.25 Internal audit and reporting systems.

(a) The contractor should monitor records of referrals, placements, transfers, promotions and terminations at all levels to insure nondiscriminatory policy is carried out.

(b) The contractor should require formal reports from unit managers on a schedule basis as to degree to which corporate or unit goals are attained and timetables met.

(c) The contractor should review report results with all levels of management.

(d) The contractor should advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

§ 60-2.26 Support of action programs.

(a) The contractor should appoint key members of management to serve on Merit Employment Councils, Community Relations Boards and similar organizations.

(b) The contractor should encourage minority and female employees to participate actively in National Alliance of Businessmen programs for youth motivation.

(c) The contractor should support Vocational Guidance Institutes, Vestibule Training Programs and similar activities.

(d) The contractor should assist secondary schools and colleges in programs designed to enable minority and female graduates of these institutions to compete in the open employment market on a more equitable basis.

(e) The contractor should publicize achievements of minority and female employees in local and minority news media.

(f) The contractor should support programs developed by such organizations as National Alliance of Businessmen, the Urban Coalition and other organizations concerned with employment opportunities for minorities or women.

Subpart D—Miscellaneous

§ 60-2.30 Use of goals.

The purpose of a contractor's establishment and use of goals is to insure that he meet his affirmative action obligation. It is not intended and should not be used to discriminate against any applicant or employee because of race, color, religion, sex, or national origin.

§ 60-2.31 Preemption.

To the extent that any State or local laws, regulations or ordinances, including those which grant special benefits to persons on account of sex, are in conflict with Executive Order 11246, as amended, or with the requirements of this part, we will regard them as preempted under the Executive order.

§ 60-2.32 Supersedure.

All orders, instructions, regulations, and memoranda of the Secretary of Labor, other officials of the Department of Labor and contracting agencies are hereby superseded to the extent that they are inconsistent herewith, including a previous "Order No. 4" from this Office dated January 30, 1970. Nothing in this part is intended to amend 41 CFR 60-3 published in the FEDERAL REGISTER on October 2, 1971 or Employee Testing and Other Selection Procedures or 41 CFR 60-20 on Sex Discrimination Guidelines.

Effective date. This part shall become effective on the date of its publication in the FEDERAL REGISTER (12-4-71).

Signed at Washington, D.C., this 1st day of December 1971.

J. D. HODGSON,
Secretary of Labor.

HORACE E. MENASCO,
Acting Assistant Secretary for Employment Standards.

JOHN L. WILKS,
Director, Office of Federal Contract Compliance.

[FR Doc.71-17780 Filed 12-3-71;8:51 am]

APPENDIX C

MEMO OF APPOINTMENT OF THE EL PASO COMMUNITY COLLEGE EQUAL EMPLOYMENT OPPORTUNITY OFFICER

November 20, 1973

MEMO

TO : Nancy Nelson

FROM : Alfredo G. de los Santos, Jr.

SUBJECT : Equal Employment Opportunity Officer

El Paso Community College is an equal employment employer and has established an affirmative action policy which calls for an employee of the college to monitor employment actions. Since you will be working in a position where you will be aware of all new employees, I am designating you as the Equal Employment Opportunity Officer for El Paso Community College.

New affirmative action guidelines have been established for colleges and our plan is in the process of being revised. It will be your responsibility to complete the writing of the new plan. Please contact Don Shoemake for assistance.

DGS/ss

cc: Joe M. Hendrix
Don Shoemake
Personnel File

APPENDIX D

THE EL PASO COMMUNITY COLLEGE AFFIRMATIVE ACTION PLAN

I. STATEMENT OF POLICY

It is the policy of El Paso Community College that equal opportunity and treatment shall be provided in all aspects of employment without regard to race, age, religion, color, national origin, or sex. Additionally, the President, Administrative staff, and the Board of Trustees will devote their professional competence towards the implementation of this affirmative action. An ongoing process will establish the methods and procedures through which the objectives of this affirmative action plan may be achieved.

The El Paso Community College has a continuing commitment to the following objectives:

1) To review present policies and procedures and assume new or revised policies and procedures when appropriate to provide for the establishment of specific objectives for equal employment opportunities at El Paso Community College.
2) To review and correct any existing inequalities which have resulted in discrimination toward minority groups or women.
3) To insure that applicants with appropriate qualifications will be afforded equal employment opportunities regardless of race, sex, religion, age, color, or national origin.

This Affirmative Action Plan is an outline of the steps to be followed in order to increase the number or to improve the distribution of minority and female employees at El Paso Community College.

Provisions for the consideration of any complaints of discrimination on the basis of race, color, religion, sex, age or national origin will be established by procedures documented in the El Paso Community College Policies and Procedures Manual.

Qualified women and minority applicants will be identified and encouraged to apply for positions at El Paso Community College.

Solicitations or advertisements placed by or on behalf of El Paso Community College will indicate all applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin.

On any contract negotiated with El Paso Community College of an amount exceeding $25,000, El Paso Community College will continue to require a statement in writing of the contractor's Equal Opportunity Commitment.

This policy statement is to be implemented throughout all components of El Paso Community College, and is the responsibility of all personnel, supervisory and non-supervisory. The methods by which this policy and its objectives are achieved are the essence of El Paso Community College's Affirmative Action Plan.

II. STATEMENT OF RESPONSIBILITY

The responsibility for assuring the Affirmative Action Program implementation rests with the President of El Paso Community College. The responsibility for assuring the continuing success of Affirmative Action rests in the hands of each member of the staff.

II. ADMINISTRATIVE, INSTRUCTIONAL, AND CLASSIFIED PERSONNEL

The goal of El Paso Community College is to have a competent professional staff which includes women and members of ethnic and racial minority groups capable of contributing to the achievement of the objectives of the institution. In the employment process, every effort will be made to recruit in such a way that women and individuals from minority groups will have an equal opportunity to be considered and appointed to Administrative, Instructional, and Classfied staff positions. It is the policy of El Paso Community College that no appointments will be made to these positions until minority group candidates have been sought out and, if qualified candidates are identified, are encouraged to apply. All El Paso Community College personnel involved in the employment process will recognize they have the following responsibilities:

1) To be specifically aware of all El Paso Community College policies and government regulations regarding equal employment opportunities.
2) To be alert to identify problems and opportunities relative to equal employment opportunity for all Administrative, Instructional, and Classified employees.
3) To establish goals, objectives, and reasonable time tables for more effective equal employment opportunity.
4) To list all position vacancies with the appropriate personnel officer: to make final selection without regard to race, color, religion, sex, age, or national origin.
5) To create and maintain for review, in a designated location, a viable applicant pool; plus copies of all relevant communications, policies, and job descriptions pertaining to recruitment and interviews.
6) To insure that all training opportunities are available to all members without regard to race, color, religion, sex, age, or national origin.

IV. DEVELOPMENT PROGRAMS TO ELIMINATE PROBLEM AREAS AND TO ENHANCE PRESENT PROGRAMS

A. Recruitment

In order to achieve immediate and long-range objectives, El Paso Community College will engage in active recruitment of minority and women candidates.

1) Contact will be made with selected administrators and other professionals on a national basis. Further, direct contact will be made with organizations and agencies specifically

oriented to and concerned with minority groups and women, within and outside the community and junior college field.

2) All current employees will be made aware of new job opportunities within El Paso Community College.

3) All recruitment sources will be informed of El Paso Community College's equal employment affirmation. El Paso Community College will request that each of its sources submit a letter informing it of policy and practice relative to equal employment opportunity for all. (Such information will determine those businesses, advertising media, employment agencies, etc., with which the El Paso Community College will have interaction and those with which it will deal.)

4) All employment openings with a salary of $18,000 or under will be listed with the United States Employment Service in the District of Columbia.

B. Job Descriptions

Job descriptions will be prepared for all positions and periodic analyses of job descriptions and job performances will be made to insure consistency between written job descriptions and actual job performances. Job descriptions will be updated regularly as a result of these analyses. Job descriptions will be free of bias as regards race, sex, age, color, religion, and national origin. Each job description will be classified within a wage catagory and this classification will be reviewed when the job description is modified.

C. Promotions

The El Paso Community College will see that all employees have full opportunity for advancement within the organization. The El Paso Community College will attempt to upgrade the current staff and qualify them for other positions before a position is filled from the outside. Job descriptions showing job requirements will be available for review by employees when a job opening occurs. Personnel records will include the length of service at El Paso Community College and in each position held by an individual.

D. Personnel Policies and Procedures

El Paso Community College will maintain a policy and procedure manual which includes, but is not limited to, detailed information on employment practices pertinent to each employee, fringe benefits, EEO policy, grievance procedures, etc.

V. EMPLOYMENT OBJECTIVES AND MANPOWER REQUIREMENTS

El Paso Community College will utilize attrition to the maximum extent possible to upgrade and extend the participation of minority groups and women among the professional and staff personnel work forces.

The goal of achieving all of the technical aspects of the El Paso Community College's Affirmative Action Program is September 15, 1974.

The following goals are established for El Paso Community College to improve the employment ratios of women and people from minority groups:

	Distribution on 9/1/73		Intended Distribution on 12/1/74	
	Minority	Women	Minority	Women
Administrative Staff	57%	29%	58%	35%
Instructional Personnel	34%	43%	45%	45%
Classified Staff	84%	67%	75%	65%

VI. RECORD KEEPING

El Paso Community College's personnel officers will monitor the Affirmative

Action Plan and insure compliance with its standards by maintaining a record of the name, race, and sex of each applicant contact and the disposition of each applicant. A record will also be maintained regarding the method in which the applicant was referred to El Paso Community College's personnel office.

A report will be prepared annually for the president of El Paso Community College indicating:

1) Number of candidates interviewed.
2) Minority group and sex applicants.
3) Number of minority and female applicants hired in Administrative, Instructional, and Classified Staff positions.
4) Minority and female percentages of Administrative, Instructional, and Classified Staff personnel.
5) Listing of the recruiting sources for new employees.

Personnel records will be kept current to reflect the employee's job category, salary level, and rate of promotion.

VII. VENDORS AND SUPPLIERS

All contractors, subcontractors, and jobbers as required by law, will be notified of El Paso Community College's responsibilities under Executive Orders and of their ensuing obligations. All purchase orders will have affixed a general statement regarding the seller's responsibility for compliance with non-discrimination.

IIII. DISSEMINATION OF POLICY

A. Internal

1) An Affirmative Action file will be maintained in the office of the President of El Paso Community College.

2) Each employee will be given a copy of the Affirmative Action Statement.

3) A copy of the statement will be included in the Policies and Procedures Manual which is given to each employee.

4) Equal Employment Opportunity posters and other pertinent Government sponsored posters will be utilized on bulletin boards where employees can see them.

5) Reference to the policy statement will be made during a new employee's orientation.

6) El Paso Community College's Equal Employment Opportunity Statement will be posted on permanent bulletin boards.

B. External

1) All recruitment sources and advertising sources will be informed of El Paso Community College's policy requiring discrimination-free recruitment and hiring practices.

2) Included on all application forms will be the statement "Equal Opportunity Employer".

3) Whenever possible, both minority and non-minority persons will be utilized in public presentations to reflect El Paso Community College's attitude regarding its employment practices.

APPENDIX E

THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972

92d Congress }
2d Session }
COMMITTEE PRINT

THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972

Title VII of Civil Rights Act of 1964 Showing Changes Made by Public Law 92–261 Approved March 24, 1972

SUBCOMMITTEE ON LABOR
OF THE
COMMITTEE ON LABOR AND
PUBLIC WELFARE
UNITED STATES SENATE

MARCH 1972

Printed for the use of the Committee on Labor and
Public Welfare

U.S. GOVERNMENT PRINTING OFFICE
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FOREWORD

This Committee Print contains the text of the Equal Opportunity Act of 1972 (Public Law 92–261), together with the text of Title VII of the Civil Rights Act of 1964 (78 Stat 253; 42 U.S.C. 2000e *et seq.*) as amended by the Equal Employment Opportunity Act of 1972. The enactment of this Public Law is a major step forward in assuring the goal of equal employment opportunity to millions of minorities and women in our society. The expanded coverage provided by the Act, together with the newly created enforcement powers represents significant advancement in the Civil Rights field. This print has been prepared in order to provide information and assistance to the Members of Congress and other interested parties with regard to the new features in the law.

HARRISON A. WILLIAMS, Jr.,
Chairman.

CIVIL RIGHTS ACT OF 1964 AS AMENDED

AN ACT To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".

* * * * * * *

TITLE VII—EQUAL EMPLOYMENT OPPORTUNITY[1]

DEFINITIONS

SEC. 701. For the purposes of this title—

(a) The term "person" includes one or more individuals, *governments, governmental agencies, political subdivisions,* labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

(b) The term "employer" means a person engaged in an industry affecting commerce who has *fifteen* or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or *any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), or* (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, *except that during the first year after the date of enactment of the Equal Employment Opportunity Act of 1972,* persons having fewer than *twenty-five* employees (and their agents) shall not be considered *employers*.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

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[1] Includes 1972 amendments made by P.L. 92–261 printed in italic.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is (A) *twenty-five* or more during the first year after the *date of enactment of the Equal Employment Opportunity Act of 1972, or (B) fifteen* or more thereafter, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended;

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by an employer, *except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the excercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision.*

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959, *and further includes any governmental industry, business, or activity.*

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

(j) The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's, religious observance or practice without undue hardship on the conduct of the employer's business.

EXEMPTION

SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, *educational institution*, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, *educational institution*, or society of its *activities*.

DISCRIMINATION BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN

SEC. 703. (a) It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees *or applicants for employment* in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership, *or applicants for membership* or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(f) As used in this title, the phrase "unlawful employment practice" shall not be deemed to include any action or measure taken by an employer, labor organization, joint labor-management committee, or employment agency with respect to an individual who is a member of the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

(g) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to fail or refuse to hire and employ any individual for any position, for an employer to discharge any individual from any position, or for an employment agency to fail or refuse to refer any individual for employment in any position, or for a labor organization to fail or refuse to refer any individual for employment in any position, if—

(1) the occupancy of such position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any Executive order of the President; and

(2) such individual has not fulfilled or has ceased to fulfill that requirement.

(h) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin. It shall not be an unlawful employment practice under this title for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 6(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(d)).

(i) Nothing contained in this title shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

OTHER UNLAWFUL EMPLOYMENT PRACTICES

SEC. 704. (a) It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, *or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,* to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

(b) It shall be an unlawful employment practice for an employer, labor organization, employment *agency, or joint labor-management committee controlling apprenticeship or other training or retraining,* in-

cluding on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment *agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee* indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party. *Members of the Commission* shall be appointed by the President by and with the advice and consent of the Senate for a term of five *years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted.* The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and *except as provided in subsection (b),* shall appoint, in accordance with the *provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: Provided, That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code.*

(b)(1) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the conduct of litigation as provided in sections 706 and 707 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law and shall concur with the Chairman of the Commission on the appointment and supervision of regional attorneys. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qualified.

(2) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, provided that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court pursuant to this title.

(*c*) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(*d*) The Commission shall have an official seal which shall be judicially noticed.

(*e*) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(*f*) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place. The Commission may establish such regional or State offices as it deems necessary to accomplish the purpose of this title.

(*g*) The Commission shall have power—

(1) to cooperate with and, with their consent, utilize regional, State, local, and other agencies, both public and private, and individuals;

(2) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(3) to furnish to persons subject to this title such technical assistance as they may request to further their compliance with this title or an order issued thereunder;

(4) upon the request of (i) any employer, whose employees or some of them, or (ii) any labor organization, whose members or some of them, refuse or threaten to refuse to cooperate in effectuating the provisions of this title, to assist in such effectuation by conciliation or such other remedial action as is provided by this title;

(5) to make such technical studies as are appropriate to effectuate the purposes and policies of this title and to make the results of such studies available to the public;

(6) to *intervene* in a civil action brought *under section 706* by an aggrieved party *against a respondent other than a government, governmental agency, or political subdivision.*

(*h*) The Commission shall, in any of its educational or promotional activities, cooperate with other departments and agencies in the performance of such educational and promotional activities.

(*i*) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 706. (*a*) *The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.*

(*b*) Whenever *a charge is filed by or on behalf of a* person claiming to be aggrieved, or by a member of the Commission, *alleging* that an employer, employment agency, labor *organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs*, has engaged in an unlawful employment practice, the Commission shall *serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice)* on such employer, employment agency, labor *organization, or joint labor-management committee* (hereinafter referred to as the "respondent") *within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges* shall not be made public by the Commission. If the Commission *determines* after such investigation that there is *not* reasonable cause to believe that the charge is true, *it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections* (c) *and* (d). *If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true*, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such *informal* endeavors may be made public by the *Commission, its officers or employees, or used as evidence in a subsequent proceeding* without the written consent of the *persons concerned.* Any *person* who *makes* public information in violation of this subsection shall be fined not more than $1,000 or imprisoned *for* not more than one *year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection* (c) *or* (d) *from the date upon which the Commission is authorized to take action with respect to the charge.*

(*c*) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

(*d*) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective *date* of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

(*e*) A charge under *this section* shall be filed within *one hundred and eighty* days after the alleged unlawful employment practice *occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter,* except that in *a* case of an unlawful employment practice with respect to which the person aggrieved has *initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof*, such charge shall be filed by *or on behalf of* the person aggrieved within *three hundred* days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

(*f*)(*1*) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (*c*) *or* (*d*), the Commission has been unable to *secure from the respondent a conciliation agreement acceptable to the Commission,* the Commission *may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, if the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commission pursuant to subsection (b) is dismissed by the Commission, or if within one hundred and eighty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has not filed a civil action under this section or the Attorney General has notified a civil action in a* *case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may* be brought against the respondent named in the charge (A) by the person claiming to be aggrieved, or (B) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the *Commission*, or the Attorney General in a case involving a government, governmental agency, or political subdivision, to intervene in such civil action *upon certification* that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsections *(c) or (d) of this section or further* efforts of the Commission to obtain voluntary compliance.

(2) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

(3) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

(4) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the

case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

(5) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. If such judge has not scheduled the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.

(g) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 704(a).

(h) The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101–115), shall not apply with respect to civil actions brought under this section.

(i) In any case in which an employer, employment agency, or labor organization fails to comply with an order of a court issued in a civil action brought under *this section*, the Commission may commence proceedings to compel compliance with such order.

(j) Any civil action brought under *this section* and any proceedings brought under subsection (i) shall be subject to appeal as provided in sections 1291 and 1292, title 28, United States Code.

(k) In any action or proceeding under this title the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.

SEC. 707. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(c) Effective two years after the date of enactment of the Equal Employment Opportunity Act of 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9, of title 5, United States Code, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with subsections (d) and (e) of this section.

(d) Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all

court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

(e) Subsequent to the date of enactment of the Equal Employment Opportunity Act of 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 706 of this Act.

EFFECT ON STATE LAWS

SEC. 708. Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

INVESTIGATIONS, INSPECTIONS, RECORDS, STATE AGENCIES

SEC. 709. (a) In connection with any investigation of a charge filed under section 706, the Commission or its designated representative shall at all reasonable times have access to, for the purposes of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to unlawful employment practices covered by this title and is relevant to the charge under investigation.

(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, *engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and* utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, *pay by advance or reimbursement* such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

(c) *Every* employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, *and, if such application for an exemption is denied*, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. *If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.*

(d) *In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency,charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection.*

(e) It shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section prior to the institution of any proceeding under this title involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year.

INVESTIGATORY POWERS

Sec. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of *the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply.*

NOTICES TO BE POSTED

SEC. 711. (a) Every employer, employment agency, and labor organization, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, and members are customarily posted a notice to be prepared or approved by the Commission setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertinent to the filing of a complaint.

(b) A willful violation of this section shall be punishable by a fine of not more than $100 for each separate offense.

VETERANS' PREFERENCE

SEC. 712. Nothing contained in this title shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans.

RULES AND REGULATIONS

SEC. 713. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable procedural regulations to carry out the provisions of this title. Regulations issued under the section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

(b) In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission, or (2) the failure of such person to publish and file any information required by any provision of this title if he pleads and proves that he failed to publish and file such information in good faith, in conformity with the instructions of the Commission issued under this title regarding the filing of such information. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this title.

FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

SEC. 714. The provisions of *sections 111 and 1114* title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. *Notwithstanding the provisions of sections 111 and 1114 of title 18, United States Code, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or on account of the performance of his official* *functions under this Act shall be punished by imprisonment for any term of years or for life.*

EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

SEC. 715. There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this section as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission, and the Chairman of the United States Civil Rights Commission, or their respective delegates. The Council shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section.

EFFECTIVE DATE

SEC. 716. (a) This title shall become effective one year after the date of its enactment.

(b) Notwithstanding subsection (a), sections of this title other than sections 703, 704, 706, and 707 shall become effective immediately.

(c) The President shall, as soon as feasible after the enactment of this title, convene one or more conferences for the purpose of enabling the leaders of groups whose members will be affected by this title to become familiar with the rights afforded and obligations imposed by its provisions, and for the purpose of making plans which will result in the fair and effective administration of this title when all of its provisions become effective. The President shall invite the participation in such conference or conferences of (1) the members of the President's Committee on Equal Employment Opportunity, (2) the members of the Commission on Civil Rights, (3) representatives of State and local agencies engaged in furthering equal employment opportunity, (4) representatives of private agencies engaged in furthering equal employment opportunity, and (5) representatives of employers, labor organizations, and employment agencies who will be subject to this title.

NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of *the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.*

(b) Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in subsection (a) of this section shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

(1) provision for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717(a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex, or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department,

agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

(d) The provisions of section 706(f) through (k), as applicable, shall govern civil actions brought hereunder.

(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government.

SPECIAL PROVISIONS WITH RESPECT TO DENIAL, TERMINATION, AND SUSPENSION OF GOVERNMENT CONTRACTS

SEC. 718. No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of title 5, United States Code, section 554, and the following pertinent sections: Provided, That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply: Provided further, That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan.

PROVISIONS OF EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972 WHICH RELATE TO BUT DO NOT AMEND THE CIVIL RIGHTS ACT OF 1964

SEC. 9. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(58) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (4)."

(c) Clause (111) of section 5316 of such title is repealed.

(d) Section 5316 of such title is amended by adding at the end thereof the following new clause:

"(131) General Counsel of the Equal Employment Opportunity Commission."

SEC. 12. Section 5108(c) of title 5, United States Code, is amended by—

(1) striking out the word "and" at the end of paragraph (9);

(2) striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately after paragraph (10) the last time it appears therin in the following new paragraph:

"(11) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS–16, GS–17, and GS–18 for the purposes of carrying out title VII of the Civil Rights Act of 1964."

Sec. 14. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act and all charges filed thereafter.

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